

J. F. 372 of 92 ✓

G. R. S. IX-5]

Previous references.

1892-93.

File No. 24 of 1892

Serial Nos. 1-23

191

(Cts)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-23

major Part B for March 1894.

Dismissal of the SUBJECT.
Appeal against the order of acquittal
in the Nemmar elburder Case;

Indexed
82

~~Guadalupe~~

(1)

2/6
Myerson

Mykashin

In a word in
the Weiman Mun-
der Case -

The general
question relating to
the admⁿ of such
acts to the App^{ts}
Attorney is under
consideration. The Bureau
has drafted a report
which is to be presented to the Chief

Court which is being
done -

Yours very much
D. M. M. M.

As to the Kemmer
Case itself I have telephoned
(3 days since) to the
Dr. & Dr. M. M. M. at
St. Louis to send it to
the Head Quarter of the
When recd, please
let the Dr. M. M. M.
& the Dr. M. M. M. M. M.
see it as usual -

M. M. M. M. M.
H. M. M. M.

(14)
CHIEF SECY.'S DEPT.

Submitted to the Dewan.

For orders

Dep't of Police'

No 227 of 19 July 93

& No 260 of 21 July 93

The Dep't of Police
Comments on
Appeal to the Chief
Court apt the Addl
Sepsis Judge's Judge
of appeal in the
Newman Murder
Case - Appeal time extends to
24th

The App'l Court & I have
advised appeal - His
note is herewith (not)

Also four volumes
being

1. MS Judge of the Addl
Judge
2. Printed Copy of the
above.

3 & 4. Very full remarks
(written in good handwriting)

On all the points
taken in the judgment
vested by the
Public Prosecutor
Mr. Sutherland

The other voluminous
facts of the case are
in the file & shall be
put if called for

J. H.

10 Aug 93

19/11

Memo

Vide advice
passed
in Memo
no. 1
Mr. Mohan
has suggested
26—

AM

I find that Sir K. K. Sheshadri
Iyer had already sanctioned
an appeal being preferred after
the order of acquittal passed
by the trial Judge. The
case is an important one.
Great mass of evidence has
been adduced for the prosecution
and on the opinion of both
the trial Judge and the
then has apparently been a
~~misapprehension~~
misapprehension of justice and
in the interests of public
justice it seems ^{that} desirable
that an appeal should be
preferred after the order of
acquittal and the appeal
will be authorized accordingly.

to an able son of the father and a
forthright under 1417 Croft
in the 1st of May —

W. H. H. H.

Legal.

THE NEMMAR MURDER CASE.
IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION,

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.

Government of Mysore.

vs.

1. Police Ramanna.
2. Sasimane Narasaiya.
3. Singoji.
4. Lingabhatta.
5. Lakshminarainbhatta alias Gundappa.

Charge:—

Against prisoners 1 and 3.

Culpable homicide, amounting to murder, punishable under Section 302 of the Indian Penal Code.

Against Prisoners 2, 4 and 5.

Aiding and abetting the commission of culpable homicide, amounting to murder, punishable under Section 302—109 of the Indian Penal Code.

Opinion of the Assessors: Not guilty.

Finding of the Judge: Not guilty.

JUDGMENT.

Briefly stated, the facts of the case as alleged by the prosecution are these:—

Handalmane is a hamlet attached to the village of Nemmar. One Kristna Row was an influential land holder and money lender residing in the only house situate in that hamlet, the 4th accused Singabhatta is a resident of Kutagode, which is about 4 or 5 miles from Nemmar, the 5th accused

is his second son, while the 3rd accused is his servant. The 2nd accused Narasaiya is a debtor of the 4th accused and lives at Sasiman which is only by a few furlongs distant from Handalmane. The 1st accused was a Police Constable employed in the Koppa Taluk. He was on friendly terms with the 4th accused, and was in the habit of paying him occasional visits. In connection with the estate of a minor closely related to the 4th accused bitter enmity arose between Krishna Row and the 4th accused some 10 or 12 years ago. There were several subsequent legal proceedings between these two persons as well as between their friends, dependents and partizans. In October 1889 the 4th accused was sentenced to rigorous imprisonment for two years in a case got up against him by Krishna Row. In order to undergo this sentence, the fourth accused was removed to the Shimoga Jail. About that time there was a Criminal case against Kristna Row, in which the 4th accused played a most prominent part. That case failed, and Kristna Row obtained sanction to prosecute the 4th accused and his friends for the offence of giving false evidence. In February 1890 the 4th accused was removed to Chikmagalur from the Shimoga Jail in order to stand his trial upon the charge thus preferred against him by Kristna Row, and that case having collapsed, the 4th accused was taken back to the Jail at Shimoga. Being determined to have his revenge, the 4th accused received clandestine visits from his friends while in prison and partly by threats and partly by promises of reward succeeded in enlisting their sympathy and co-operation. After one or two minor plots, it was settled that Kristna Row should be murdered by the 1st accused who was to be assisted in the act by the 2nd and 3rd accused and one Sivaiya. The necessary funds and weapons were to be supplied by the 5th accused.

In pursuance of this arrangement the 1st and 2nd accused and Sivaiya met in the house of the 5th accused, and arming themselves with a gun proceeded to the house of Kristna Row on a certain night in the month of October 1890. The party waited for several hours, but Kristna Row did not come out; the attempt thus fell through and the party had to leave Kristna Row's house disappointed.

The 2nd accused was also an inveterate enemy of Kristna Row, and was as anxious to despatch him as the 4th and 5th accused. There was likewise bad blood between Kristna Row and Sivaiya and Vagalay Venkatchellaiya. These persons resorted to several desperate characters and tried to waylay Kristna Row on his way from and to Shimoga. But these attempts on Kristna Row's life were unsuccessful.

removed

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On Friday the 5th of June 1891 there was a feast called "Durgi Samaradhane," in the village of Nemmar. Several of the members of the Handalmans house including Kristna Row attended that feast. All of them returned home in the evening. Kristna Row performed his ablutions and then came out to his front Jagali or pial on which he sat down reading a Sanscrit book by a lamp placed on the threshold of the room to the South of the pial. A boy named Kristnamachari was sitting near him with a similar book in his hand. His brother Doraswami Iyengar, and Kristna Row's cook Puttannaiya were then in the opposite room, which is to the North of the pial. Kristnamachari saw a black figure moving in the Kottigay which is situated at right-angles to the pial. Immediately after the report of a gun fired from the Kottigay was heard, the light went out and Kristnamachari became paralysed with fear. Taking a lamp from the northern room, Puttannaiya hastened to the pial, where to his horror, he found Krishna Row lying apparently dead with his head against the wall and with a severe wound on the left cheek. The alarm raised by him brought Doraswami Iyengar and Krishna Row's elder brother Phaniappa and many other persons to the spot. The boy Kristnamachari could hardly utter a word. He was sitting on the pial terror-struck and almost unconscious. It was ascertained that Kristna Row's life was extinct. Information of this occurrence was forthwith sent to the Patel of Nemmar and to the Sunkadamakki Police Station. The Patel and a Constable arrived shortly after and sent off a report to the Amildar, who had his head quarters at Harriharpur.

On the following morning a Police cartridge was found lying in the Kottigay and a discharged bullet in the "Angala" or front yard. These were secured by the deceased's nephew Gopalaiya.

The Amildar, the Hospital Assistant and several other persons arrived at between 2 and 3 P.M. of that day (6th June). An inquest was held on the body and a Mahazir was prepared. After getting the Mahazir signed by some of the persons present the Amildar delivered it to the Hospital Assistant so as to enable him to add his own observations under it. The Hospital Assistant made a note and then returned the Mahazir to the Amildar, who thereupon recorded under it a *shara* that a *post mortem* should be held the next morning and a search made in the body for the fatal bullet. Gopalaiya subsequently produced the cartridge and flattened bullet, and the Amildar recorded that fact under the Mahazir.

When the body was lifted up on the morning of the 7th preparatory to its removal to the river side for being cut and opened, a broken tooth and a few bits of cartridge paper were found lying under it. These were taken possession of by the Amildar who noted the find under the same Mahazir.

The deceased's relatives begged that the body be spared the disgrace of being touched and opened by a non-Brahman. The Hospital Assistant who is a Mussalman acceded to their wishes and got the body cut by cook Puttannaiya under his own directions and supervision. Below the collar bone, was found a piece of wood, which seemed to be a portion of the plug of a bullet. All but the spinal column was carefully opened and examined, but no bullet was found in the body. The Hospital Assistant thereupon handed over the body to the relatives of the deceased for being cremated. He was at that time of opinion that the bullet must have rebounded after striking the spinal column and left the body by the same opening as that through which it had entered it. Long afterwards, however, he abandoned that opinion and concluded that the bullet must have got into the spinal canal and remained in it.

The Amildar investigated the case from the 6th to the 18th of June and then handed over charge of it to the Assistant Superintendent of Police. Beyond a mere suspicion against certain persons he was able to obtain no reliable information sufficient to justify any definite action being taken. The Assistant Superintendent collected a mass of evidence which however did not warrant any immediate action being taken against anybody in particular. He dropped the enquiry and returned to Head Quarters in the last week of July 1891. The servants of the 4th and 5th accused preferred complaints of torture against the Police but failed to make good the same. The 1st accused against whom there was a strong suspicion and who was the chief instigator of the torture complaints came forward on the 4th of September 1891 and offered to assist the Police in the detection of the crime. The Assistant Superintendent accepted the services thus offered and accompanied the 1st accused to the scene of the murder and to its

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neighbourhood. Vagale Venkatachellaiya was produced as a person likely to make a confession and to speak the truth in the event of his being promised a pardon. The Police Assistant gave him a promise in writing on his own authority. Vagale Venkatachellaiya thereupon made a statement implicating himself and one Mahomed Sha Khan, Dharmaya Shetti and Thamaya Setti. The Police Assistant received some evidence on the spot and asked the 1st accused to produce the remaining witnesses before him at Chickmagalur. Five witnesses were accordingly brought, of whom Honnedevastan Nagappa was one. The Police Assistant considered the evidence wholly absurd and incredible and therefore not only released Vagale Venkatachellaiya but also submitted a report to the District Magistrate in Form B. Col. Campbell concurred with him and on the 28th September 1891 directed the case to be struck off the file as false.

In October 1891, the Head Quarters Inspector started for Shimoga in the hope of being able to collect some useful information there, but changed his mind on the road and came back as there was scarcely any chance of that hope being realized.

The 4th accused was discharged from the Shimoga Jail on 22nd October 1891. He afterwards called upon a large number of his retainers, debtors and friends to come to a settlement of accounts with him and to pay up what was due by them. He instituted suits against some of them and threatened similar proceedings against the others; the relations between himself and his dependants thus became strained and a chance presented itself of getting at the truth. In March and April 1892 a further enquiry was held but nothing came of it, the case was therefore again dropped.

In July 1892, after an interview with the Inspector General of Police whose visits to those parts very properly led to increased activity both in this and other cases, the Jahagir Amildar, as a special officer charged with the detection of this murder, took up the investigation again and after gathering some valuable evidence applied for the services of the Head Quarters Inspector. Sivaiya made a confession and a pardon was tendered to him by the District Magistrate. Other important evidence was also secured. In September 1892 the accused 1 to 5 were placed before the Magistrate, who found a *prima facie* case established against them and accordingly committed them for trial before the Court of Session.

On the 8th of March 1891 the Duffedar of the Balehonoor sub-Station left for Chickmagaloor on duty. Constable Nursinga Row (who was also the station writer) remained in charge of that

sub-station from the 8th to the 12th of March. There were two guns, 20 cartridges, and 20 caps in that Sub-station, when the Duffedar left it on the 8th. When he returned on the evening of the 12th he found only one gun in the station. In the meantime, that is in his diaries of the 8th, 9th, 10th and 11th Nursinga Row had reported that the Duffedar had asked him to recover the other gun from his landlord Yakhob Alli to whom it had been lent, but that the latter had failed to give it up though often demanded. On being questioned by the Duffedar on the evening of the 12th Nursinga Row told him the same story. The Duffedar reported that Nursinga Row had willfully caused the disappearance of one of the guns and that the story told by him was absolutely false. After writing that report, he counted the cartridges and caps and found that 13 of the former and 16 of the latter were missing. This fact was embodied at the foot of the report, the Jemadar held an enquiry and submitted a report which led to the Duffedar and Nursinga Rao being directed to pay a moiety each of the value of the missing articles. On 16th September 1890, about 200 cartridges had been dated and initialled by the Reserve Jemadar in red ink. Four of these were sent to the aforesaid Sub-station on 2nd October 1891. This number was included in the 20 cartridges which were in stock on 8th March 1891 when the Duffedar left for Chickmagaloor and of which 13 were found missing on the 12th idem. The cartridge picked up in the kottigay of Krishna Row's house on the morning of the 6th June 1891 bore the said date as well as the Reserve Jemadar's initials. An enquiry was made and it was ascertained that no cartridges had been lost in any other Station than Balehonoor. There was thus sufficient reason to connect the cartridge found in Krishna Row's kottigay with the loss reported from Balehonoor station. Nursinga Row was therefore again questioned on the subject. It thereupon turned out that the 1st accused had visited the Balehonoor Sub-station on the evening of 8th March 1891, and not only helped Nursinga Row in throwing a gun into the river so as to wreak his vengeance upon the Duffedar who had several times got him fined for remissness in the discharge of his duty, but also helped himself to a large number of cartridges and caps saying that

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their disappearance would likewise bring trouble upon the Daffedar. The river was in flood and the gun could not consequently be at once recovered. It was found in April 1892, at the spot indicated by Narsinga Row. The gun with which Kristna Row was shot was not the gun thus recovered, but the one which Vagale Venkatachellaya unearthed from under a tree in September 1891, and which, as now appears, the 1st accused had buried there in order to divert suspicion from the real culprits. The Police gun incident shews that the cartridge picked up in Kristna Row's Kottigay was one of the cartridges taken away by the 1st accused from Balehonoor and must have been accidentally dropped by him there on the night of the murder.

Sivaiya was a bitter enemy of Kristna Row and an intimate friend of the 4th accused. Another person concerned in the murder is Belandur Ramu who was in the service of the 4th accused, but who has now absconded. Such in short is the case sought to be made out by the prosecution.

2. The accused 1 to 5 plead not guilty to the charge.

3. Forty-eight witnesses were examined by the prosecution as shewn in the list herewith attached.

4. A list of the exhibits filed by the prosecution is also appended.

5. The prisoners made statements as follows:

6. The witnesses examined and the exhibits filed by the Defence are shewn in the lists hereunto annexed.

7. One witness was examined by the Court *suo motu*.

8. The case for the defence is this, that Kristna Row had a host of enemies besides the 2nd and 4th accused, that the accused 1 to 5 are wholly innocent, that the most important witnesses for the prosecution had not a word to say against the accused until a few months ago, when they turned hostile to them in consequence of legal proceedings initiated against them by the 4th accused after his release from Jail and that there is not an iota of independent and untainted evidence in proof of the charge against the accused.

9. This is an unusually long and intricate case. It was heard from day to day for nearly six weeks. The number of witnesses cited and of documents exhibited was very large. The murder took place nearly two years ago, and the Police have since enquired into the case several times. The incidents sought to be proved relate to periods both anterior and subsequent to the date of the crime. I have had to study a voluminous record and to compare the statements made by the witnesses at the various stages of the proceedings and to consider them along with the documentary evidence relied upon by both sides. I have done this as well as I could and given this important case my best and most anxious consideration.

10. There can be no doubt that Kristna Row died of a gun-shot wound. This is deposed to not only by the persons who were in the house at the time of the occurrence, but also by those who held the inquest on the following day including the Hospital Assistant. It is in evidence that there was a wound on the left side of the face down to the collar bone. It was a large lacerated irregular wound 5 inches long and 2 inches wide. Above that wound there was a bruise about the size of a split pea. The rupture of the carotid artery the shock caused by the gun-shot wound, and the injury to the spinal cord were the cause of the death. It is also abundantly clear that this was homicidal and not either suicidal or accidental.

11. The next question is what was the kind of weapon which could have inflicted the injury above described? The *post mortem* was not a thoroughly satisfactory one. On this point I quite agree in Mr Achuta Row's opinion. The Hospital Assistant admits that the relatives of the deceased objected to his touching the body and holding a *post mortem*. In the same breath he makes the most improbable statement that he measured the wound by himself touching the body. The fatal bullet was not found. Admittedly the body was not cut by a professional man. That a Brahmin cook cut the several portions of it as elaborately described by the Hospital Assistant is a story of the highest improbability. The Hospital Assistant's present allegation is inconsistent with the statement made by him before Mr. Sparkes on the 15th July 1892. He then asserted that a Mahratta compounder by name Sidda cut the body and that the Brahmin cook was simply present helping the compounder. The cook's statement as to what parts of the body he cut is in conflict with the testimony of the Hospital Assistant. The Amildar went away owing to his mother's dangerous illness and was not present when the farce of a *post mortem* examination was gone through near the river. The brother and nephew of the deceased as well as the other persons who accompanied the body to the river side, stood at a great distance from the spot where the dissection of the body is alleged to have been made. They are therefore naturally unable to say what was done to the body by the cook under the direction of the Hospital Assistant. On the 21st

The Prisoners' statements
are omitted here }

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September 1891, the deceased's brother Phaniyappa admitted before the Police that he did not believe that the body had been cut at all; on the 3rd March 1892 he said that the *post mortem* had not been properly conducted. The object of the *post mortem* was to search for the fatal bullet and yet the Hospital Assistant says he did not cut and examine the spinal column which was the most probable place where that missile could be discovered. In these circumstances it is difficult to say that the wound or the internal organs were properly examined. That being so, it is not easy to decide from the nature of the injuries external or internal whether the weapon used by the murderer was a gun or a revolver, and whether the missile used was a solid bullet or an explosive bullet or mere shot. The materials being very meagre the Civil Surgeon is naturally unable to give any positive evidence on this point. It is alleged that the plug found below the collar bone affords sufficient evidence as to the nature of the weapon and of the charge used by the murderer. But I am not satisfied that the piece of wood in question was found in the body. The only testimony on this point is that borne by the Hospital Assistant and cook Puttanuiya who in my opinion are very unsatisfactory witnesses. If the bullet remained in the body it would probably be found in or near the spinal canal which was the last portion of the body touched by it. As stated by the Civil Surgeon the plug should in that case have been found somewhere near the bullet itself and not in that portion of the body in which it is alleged to have been discovered. Assuming however, that the bit of wood in question was found in the body, I find that it is neither an entire plug nor a portion of a plug similar to the plug attached to the base of a police cartridge. The wood seems different both in kind, size and shape. I am thus left in doubt as to the kind of cartridge to which this broken plug belonged, and therefore also as to the kind of weapon used.

(To be continued.)

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THE NEMMAR MURDER CASE.
IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION.

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.

Government of Mysore,

1. Police Ramanna.
2. Sasimane Natasaiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarainbhatta alias Gundappa.

JUDGMENT.

(Continued from our yesterday's issue.)

12. An attempt has been made to clear this doubt by shewing that a Police cartridge was picked up in the Kottige which is within a few yards of the spot where Kristna Row was killed. This is a matter of some importance, and demands careful scrutiny. The person who is alleged to have found the cartridge is Venkatachellabhatta, the 8th witness. Another article said to have been found near the scene of the murder on the same morning (6th June) is a discharged bullet. As regards both these articles, the evidence is extremely unsatisfactory. They were not delivered to the Amildar or even mentioned to him when he held the inquest and prepared the Mahazir. That they were produced before him after the preparation of the Mahazir and before the crowd dispersed for the night, seems to me to be most improbable. The foot-note made by the Amildar concerning them has not been signed by any of the Pan-chayetdars. There are material discrepancies between the statements of the 4th, 8th, 20th, 21st, 22nd, 26th and 46th witnesses, as to when and how the cartridge and bullet were produced and as to whether the 8th and 20th witnesses were at once asked where, when and how they were discovered. There is a similar conflict as to the person by whom the bullet was picked up, as well as regarding the person by whom they were produced before the Amildar. The statement that the 20th witness had secured it in a room upstairs along with the cartridge is admittedly untrue. In the Amildar's diary of the 5th purporting to have been written on the 7th, there is not a word said either about the cartridge or about the flattened bullet. The discovery of these articles, if true, was undoubtedly a most important one. That being so, it is not easy to believe that the Amildar did not think it necessary to at once hold an enquiry concerning it. It is in the diary of the 7th, purporting to have been written on the 8th, that mention was for the first time made of the finding of the cartridge near the scene of the offence. Even then, no reference was made to the finding and production of a bullet. One of the brothers of the deceased then stated that the cartridge was found on the pial of the Kottige, but it is now alleged that it was picked up at a wholly different spot. The 8th witness has contradicted himself on more points than one, especially as to the object with which he went to the Kottige on the morning of the 6th. The Patel and a Constable were present when that article was found, but instead of either of them taking charge of it, a nephew of the deceased is said to have been entrusted with the keeping of it pending the Amildar's arrival. The 8th witness is heavily indebted to the deceased's brother. He has recently obtained a sale-deed from Sivaiya, the approver. His evidence is not in my opinion disinterested and free from suspicion. I may also mention here that he is related to Sivaiya and is the Pujari of a temple under the management of the deceased's brother's son-in-law. The bullet was lying in an open place where there was a large crowd and yet nobody noticed it for several hours after sun-rise. At length the 12th witness Sankara is said to have picked it up. The deceased's nephew makes the manifestly improbable statement that being a discharged and useless bullet, he did not secure it, as advised by the persons present, when it was given him by the 12th witness, but put it away near a pillar and bestowed no further thought upon it, until he was asked in the evening to produce it before the Amildar. The witnesses are not agreed as to the person by whom it was produced in the evening. Several of the witnesses profess not to know any thing at all about this bullet, or about its production before the Amildar. Kariya, who

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is said to have produced it from near the pial where Gopalaiya had placed it has not been examined. During the enquiry held by the Assistant Superintendent of Police, it was elicited from the deceased's brother Ranga Row that the bullet was picked up not on the 6th (Saturday) but on the 8th (Monday,) not by Sankara 12th witness but by Kariya who has not now been examined and not in the Court yard, but at the foot of the pial. It was also elicited from him that Kariya did not leave it with the deceased's nephew or any body else, but took it away with him to his own house and that the Jamadar on hearing of this, sent word to Kariya who came to the deceased's house on the morning of Monday the 8th and handed over the bullet to the Jamadar, who took down his statement. This, if true, proves the utter baselessness of the story that the bullet and the cartridge were produced simultaneously before the Amildar and were taken possession of by him on the evening of the 6th, as recorded in the postscript to the Mahazir. On the 21st September 1891, Phaniyappa told a somewhat different tale before the Police Assistant. He however supported his brother's allegation that the Jamadar sent for Kariya and took the bullet from him on Monday the 8th of June. At a subsequent stage of the Police enquiry, i. e., on the 3rd March 1892, Phaniyappa admitted that no bullet was picked up at all and that the story regarding its discovery was a ruse resorted to for the purpose of supplying the place of the fatal bullet which had not been recovered. It is noteworthy that at one time an attempt was made to shew that the discharged bullet in question had been dropped by accident by one of the many persons that visited the house of the deceased on the morning of the 6th. That attempt has since been abandoned. It is now honestly conceded that the bullet in question had no manner of connection with the death of Kristna Row and that its alleged discovery and production on the 6th cannot be true. The evidence as regards the cartridge does not seem to be more trustworthy than that concerning the bullet. There is a single foot-note under date the 6th regarding both the articles. If one of the articles was not produced before the 8th or 9th that foot-note must be condemned as antedated and unreliable, not only in respect of that article, but also in respect of the other. On the whole, I find myself

unable to believe that the police cartridge was either found lying in the Kottige on the morning of the 6th or was produced before the Amildar on the evening of that date. The alleged discovery of the cartridge or of the discharged bullet does not thus throw any light upon the kind of weapon or missile used in putting an end to the life of Kristna Row. I strongly suspect that this alleged discovery is traceable to some information which was gathered by the Police between the 6th and 8th and which led to a vague suspicion that the 1st accused was in some way or other mixed up with the murder and must have taken a part in the commission of it.

13. Another circumstance urged by the prosecution is the finding of a few bits of paper and a broken tooth under the body of Kristna Row when it was lifted up on the morning of the 7th June. The evidence offered in proof of this is not sufficiently strong and conclusive. The foot-note recording this discovery has not been signed by the Panchayetdars. Moreover the discovery, even if true, does not seem to me to be of much importance. The broken tooth cannot possibly shew what the fire-arm and missile used by the murderers were. The bits of paper do not quite correspond with the paper covering of Police cartridges. They cannot therefore be accepted as proof of the allegation, that the missile used was a Police cartridge.

14. The Hospital Assistant wrote in a complaining tone in his report of the 9th of June, that a cartridge and bullet had been found in the verandah, but had neither been referred to in the copy of Mahazir sent to him nor forwarded to him along with it. This is incompatible with the supposition that the articles above mentioned were produced before the Amildar in the presence of the Hospital Assistant on the 6th. It further shews the Hospital Assistant could not have heard it said that the cartridge had been found in the Kottige and the bullet in the court-yard. It is worthy of note that the copy of Mahazir sent to the Hospital Assistant on the 7th or 8th does not contain the postscripts relating to the production of the cartridge; bullet, broken tooth and bits of paper. The Jamadar explains the omission by saying that the information was already known to the Hospital Assistant to whom therefore the postscripts were considered useless. This is simply absurd. The Hospital Assistant was present throughout the inquest. He knew all about the contents of the Mahazir which was written in his presence. It was nevertheless thought that a copy of that document might be of use to him, and was sent to him accordingly. Why the foot-notes were deemed useless to him it is not possible for me to understand. I do not think I am wrong in supposing that the foot-notes were not in existence when a copy of the Mahazir was prepared and sent to the Hospital Assistant.

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15. Granting for the sake of argument that a Police cartridge was found in the Kottige on the morning of 6th June, and that it leads to the inference that the missile used was a similar cartridge, I shall now proceed to consider the evidence adduced to connect the 1st accused with that cartridge. There is a writing on that article. It has been identified as the initials of the Reserve Jemadar with the date of issue. I am willing to believe that that official dated and initialled some 200 cartridges on 16th September 1890 and that four of these reached the Balehonoor Sub-station on 3rd October 1890. But the evidence offered in proof of the allegation that no cartridges of that description were lost in any other station is of the weakest kind, and does not commend itself to me as conclusive. It is conceded that cartridges are used for such purposes as cleaning carbines and destroying wild beasts and rabid dogs. The record shows that very little check is being exercised on the use of cartridges. It was quite possible that the cartridge picked up in Krishna Row's Kottige and the one with which Krishna Row was shot dead, came from some other station than Balehonoor. Neither the improbability nor the impossibility of this supposition has been established by the prosecution. The story that the 1st accused took some cartridges and caps from the Balehonoor Sub-station on the night of 8th March 1891 rests upon conflicting tainted and wholly incredible testimony. On the morning of that date the Deputy Amildar and Jemadar seem to have paid a visit to that Sub-station and found a couple of guns hanging against the wall thereof. They did not however examine the contents of the *Dubba* containing cartridges and caps. Consequently, they are not in a position to say that there were 20 cartridges and as many caps in the station, according to the Register. The 30th witness is the Duffedar who was in direct charge of the station. The Jemadar and himself left Chikamagaloor at 10 A. M., leaving the station in charge of Constable Narasinga Row, the 32nd witness. The Duffedar states that he counted the caps and cartridges and handed over the same to Narasinga Row before leaving the Station. Narasinga Row denies the truth of this statement and alleges that the Duffedar simply told him that there were 20 of each kind in the *Dubba* or leather case. Even this allegation is opposed to Narasinga Row's evidence before the Magistrate, that the Duffedar did not tell him how many caps and cartridges the case contained. It is thus obvious that there is no satisfactory proof as to the number of cartridges and caps which were in the Station on the morning of the 8th March 1891. The Duffedar returned on the evening of the 12th idem and missed one of the two guns which he had left in charge of Narasinga Row. On being asked to account for it, the latter made a statement charging the Duffedar with having given the missing gun to his (Duffedar's) landlord Yakhooballi, who had failed to restore it on demand. This was probably a false statement. Narasinga Row had already made it in his diaries of the 8th, 9th and 11th. He repeated it when examined by the Jemadar who held an enquiry as directed by the Deputy Amildar. He adhered to it when he subsequently went to the Assistant Superintendent and applied for a transfer on the ground that the Duffedar was not favourably disposed towards him. 13 cartridges and sixteen caps were also missed on the evening of the 12th. Narasinga Rao denied having had anything to do with their disappearance. He said not a word about the visit of the 1st accused to the Station. Both the Duffedar and Constable were found to be at fault, and were ordered to make good the value of the missing articles in equal shares. Long afterwards, that is on 19th June 1891 the Police Assistant who was anxious to find out how a Police cartridge with date and initials had come to be lying in Krishna Rao's Kottige induced Narasinga Rao to tell the truth as regards the loss which had occurred at Balehonoor on the 8th March 1891 and what was the story told by Narasinga Rao? It was this, that the 1st accused had visited the Station on the evening of the 8th March and on being told that the Duffedar was becoming very troublesome had suggested that one of the guns be thrown into the river so as to bring the Duffedar into a scrape. During the small hours of the morning the 1st accused and Narasinga Rao proceeded to the river and threw the gun into the water thereof. After coming back to the Police Station the 1st accused emptied the contents of the leather case on a mat and took for himself a few cartridges and caps out of them. The constable objected to this, but was told in reply that the Duffedar would get into trouble and not he. This is a story which I confess I am unable to believe. The 1st accused was a stranger to the unpleasantness which had arisen between Narasinga Row and the Duffedar. That Narasinga Row nevertheless opened his mind freely to the 1st accused and agreed to abide by his dangerous advice, seems highly improbable. In his diaries of the 8th to 11th Narasinga Row did not at all

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refer to the loss of cartridges and caps. When asked to explain the omission, he states that he thought that the Duffadar had secured the caps and cartridges in a table. This unguarded statement militates against the story of their having been taken away by the 1st accused. He states before me that he does not know how many of each kind were taken by the 1st accused. But before the Magistrate he said that the 1st accused had taken 10 cartridges and 5 or 6 caps. Some more of each kind had disappeared and there is nothing to shew what had become of them. Before the Police, Narasinga Row alleged that he counted the caps and cartridges poured on the mat by the 1st accused and that they were of different sizes, some being larger than the others. In this Court however he contradicts himself and asserts that he did not count those articles and that they were of uniform size. He admits that he did not tell the truth until he was assured that no trouble would come upon him, but that on the contrary his official superior would do him good. Is it safe to place any reliance upon the uncorroborated and suspicious evidence of a witness like Narasinga Row? If his first story was a concocted one, where is the guarantee that the second story is not likewise a fabrication? The man continues to be in service notwithstanding the admitted fact that he wilfully caused the disappearance of public property in order to bring his immediate official superior into trouble. Comment upon this is superfluous. I wish to make one more observation before dismissing this part of the case. Admittedly 16 cartridges out of the 20 in the leather case had no writing on them. The 1st accused is an astute and intelligent Brahmin and has long been employed on detection duty by reason of his skill being admittedly much above the average. He did not thrust his hand into the leather case in the dark and help himself to a portion of its contents. On the contrary, there was a lamp burning before him. He poured all the 20 cartridges on the ground. He knew that cartridges with date and initials were more easy of identification than plain cartridges. The latter were more numerous than the former. And yet it is alleged that he took four dated and initialled cartridges and restored to the leather case seven undated and uninitialled ones. I cannot persuade myself to believe that he was so stupid as he is represented

to have been. The whole story is so beset with improbability that I do not hesitate to discard it as utterly unworthy of credit. It is not unlikely that Narasinga Row threw one of the guns into the river and made a false report against the Duffadar at whose instance he had more than once been fined. That gun was dived for and recovered in April 1892. But the 1st accused's connection with the disappearance of that gun or of cartridges and caps, has not been made out by any evidence worth the name. There is thus no means of connecting the 1st accused with the cartridge picked up in the deceased's Kottige, otherwise than by the direct evidence offered as to the murder, which will be dealt with later on.

16. The point for determination is whether all or any of the accused persons were concerned in the murder of Krishna Row? If there is credible and satisfactory evidence upon this point, the Court must certainly act upon it notwithstanding the doubt and uncertainty which beset the minor points already discussed and decided against the prosecution.

(To be continued.)

24-3-1903

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THE NEMMAR MURDER CASE.

IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION.

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.
Government of Mysore.

1. Police Ramanna.
2. Sasimane Narasaiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarainbhatta alias Gundappa.

JUDGMENT.

(Continued from our yesterday's issue.)

17. It cannot seriously be denied that the 2nd and 4th accused were not the only enemies of the deceased Krishna Row. It is true that the 4th accused is a man of some influence and that he was long smarting under the trouble and annoyance which Krishna Row was incessantly giving him by getting up cases against him. It is unnecessary to give a list of those cases. Suffice it to say, that they were not a few in number, and that in one of them, the 4th accused was sentenced to two years' rigorous imprisonment in October 1891, while in another he was removed from Shimoga to Chickmagalur in prison dress. It is also clear that the 4th accused's attempts at retaliation were nearly all of them unsuccessful. The relations between the deceased and the 4th accused were thus such that, if there were sufficient and reliable evidence as regards the offence, I should consider the motive on the part of the 4th accused abundantly established. The same observation applies to the 2nd accused who had suffered much persecution from the deceased. The latter once got his cook to charge the former with the destruction of a valuable security. He further induced a Mr. Collins to institute a suit against the 2nd accused upon a bond which was apparently barred by limitation. That suit as well as the appeal which had to be carried to the District Court was conducted by the deceased in the *benami* of Mr. Collins. It is needless to mention several other matters which embittered the relations between the 2nd accused and the deceased. The 3rd accused is a servant of the 4th accused. In his case, that relationship may reasonably be accepted as an adequate motive. The 5th accused is a son of the 4th accused and was naturally actuated by the same motive as his father. The 1st accused was a constable on special duty. In his case, the motive alleged was a reward of Rs. 1000 promised to him by the 4th accused. I may take it that that was a sufficient motive. The approver Sivia was also a bitter enemy of the deceased.

18. But if enmity was the motive, there are many other people in much the same predicament as the prisoners and Sivia. So early as on 7th June 1891 Phaniappa and his brother Runga Row stated that the deceased had made a large number of enemies, any one of whom might have done the deed. The Amildar who possesses much local knowledge likewise recorded that the deceased had made himself hated by many people in that neighbourhood. Several of the witnesses now examined admit that the deceased had made a host of enemies. I may particularly refer to the evidence of the 15th witness Kavadi Venkatachellia. In this connection, I may mention that Vagale Venkatachellia who made a confession in September 1891, but who now retracts all his previous statements and swears against the accused, was also on very bad terms with the deceased Krishna Row and admittedly took a not unimportant part in the several meetings and plots which had for their object the assassination of Krishna Row. Such being the case, the existence of animosity between the deceased and the 2nd and 4th accused does not *per se* justify any strong suspicion against the latter any more than against many other people similarly circumstanced.

19. Suspicion was at first entertained against an influential man other than the 2nd or 4th accused, as well as against Vagale Venkatachellia and a man belonging to the Halipyka caste. Two days subsequently, that is on 9th June 1891, the Amildar saw reason to suspect Sivia, the approver, and Vagale Venkatachellia, Belandur Ramu and the 2nd accused. It is thought however that those people had been assisted by the 1st accused and the Kutugode people. On the 28th June it was believed that Belandur Seshabhatta who is an enemy of the 4th accused and who has evinced considerable

interest in this case, had concocted a plot in order to divert suspicion from the real culprits and direct it to the Kutugode people. In July the Kutugode people were again suspected. Their servants were sent for and examined. The 5th accused and his brother were questioned but no useful information was obtained from them. Complaints were thereupon preferred against the Police by the servants of the 4th accused. Two suspicious chits, both written by Vagale Vencatachellia were produced by one Bisweswar and Mahomed Sha Khan respectively, but no definite action was taken thereon. In September 1891 the 1st accused's services as a detective were accepted by the police, not however without some misgiving. Vagale Venkatchellia obtained a promise of pardon and accused himself and one Dharnaya Shetti, Thania Shetti and Mahomed Sha Khan. The evidence then forthcoming was not considered satisfactory and reliable. The admission was disbelieved and the case was thrown out. After coming out of jail, the 4th accused made himself obnoxious to many of his old friends and debtors. He filed a large number of suits, some of which were perhaps unfair and unjust to his debtors. In March or April 1892, an anonymous petition was caused to be sent up against the 4th accused by Sivia the approver. About the same time a numerous signed petition was forwarded to the Munsiff by the debtors of the 4th accused. An old case of theft was about that time revived on the strength of an anonymous petition. The Police discredited the case against Belandur Seshabhatta and Sivia and suggested that action be taken against the present 2nd accused Narasia. The District Magistrate did not agree. His order was however subsequently cancelled upon a representation made to him by the Police. The Police papers show that from March to July 1892, the Police were in hopes of getting Sivia to confess and to implicate the accused 1 to 5. The Amildar accordingly recommenced the investigation on 27th July 1892. Sivia was becoming desperate. Suits were filed against him. His property was attached before judgment. The Petitions sent up against the 4th accused had done him no harm. In these circumstances and during the enquiry into this case by the Amildar, Sivia is alleged to have dreamt a dream at which an old lady appeared and advised him to make a clean breast of the whole affair. He went to the father of the 4th accused's exgumasta, Nagappa, who had been sued by the 4th accused and who a few days previously

had given most damaging evidence implicating his former master. As advised by that person, Sivia is represented to have voluntarily gone to the Amildar, and; in direct opposition to the denial of knowledge which he had repeatedly made on previous occasions, made an exhaustive statement admitting his own guilt and inculcating also the prisoners now before the Court. The Amildar took him to the Durgi temple and got him to repeat the story on oath. The Head Quarters Inspector arrived on the scene a few days after and collected evidence calculated to fix the guilt upon the prisoners. Such in short was the development of the case which ultimately led to the prisoners being arraigned on a charge of murder upon evidence chiefly borne by persons who as the 4th accused's friends had formerly denied all knowledge, but who afterwards as his enemies came out with a diametrically opposite story. The evidence thus tendered has therefore to be closely looked into and received with very great caution.

20. The most important witness is of course the approver Sivia. He was formerly a Suttigi kula of the 4th accused. When the case which resulted in the conviction of the 4th accused was under trial he came to Chickmagalur as a defence witness. The first incident deposed to by him is his interview with the 4th accused outside the Lock-up on the day following the date of his examination as a defence witness. He states that a peon took him to the Lock-up saying that the 4th accused wished to see him. He is unable to say who that peon was and whether he was a Hindu or a Mussalman. The 4th accused and the witness talked to each other near a stone on the way to a water course from the Lock-up. That is a spot much frequented by people, so that a strong doubt arises whether in broad daylight such an interview was likely to have taken place. Before the Magistrate the witness alleged that he met and spoke to the 4th accused near an *arekallu*. The Magistrate visited the spot and asked the witness to point out the *arekallu* which had been mentioned by him. The witness pointed out a slab of stone and the Magistrate made a note of this. Before me also, Sivia alleged that the meeting took place near an *arekallu*. It is conceded that there is no rock in the spot indicated by Sivia. On being asked to reconcile this circumstance with his statement, Sivia explained that *arekallu* may mean either a rock, or a grinding stone or a slab, and that he used the word in the sense last mentioned. I understand the word

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to mean a natural rock. The assessors attach the same meaning to the word as I do. I do not think that the word is used by any body to signify a slab or stone. Moreover, there is nothing on record to discredit the statement of Pleader Mulhari Row (defence 3rd witness) that the slab shown by Sivia was not in existence in the said spot before February 1892. Sivia could not therefore have conversed with the 4th accused near it in September or October 1889. After all, the alleged conversation was not very material. It was simply this, that the 4th accused asked Sivia to get up a sandalwood theft case against Krishna Row, and told him that the 1st accused would pounce upon Krishna Row and arrest him on that charge. Assuming that, through uncorroborated, this statement is true, it does not show that the 4th accused had any idea of taking Krishna Row's life. The 4th accused and Krishna Row had on several previous occasions concocted criminal cases against each other. In October 1889, the 4th accused was in trouble on account of a charge got up by Krishna Row, against whom therefore he wanted a counter charge to be preferred. It is not clear when and where the 4th accused had talked the matter over with the 1st accused so as to enable him to tell Sivia that he would assist in the accomplishment of the sandalwood plot. It may be remarked in passing that Sivia pretends to have first declined to accede to the 4th accused's wishes but afterwards to have consented in consequence of a threat uttered by the 4th accused.

21. The 4th accused having been convicted and removed to the Shimogah Jail, the next incident deposed to by Sivia is an interview which took place in that Jail. He alleges that on that occasion he was sent to Shimoga in connection with the appeal preferred against the conviction. But this is unlikely inasmuch as he does not say that he took any interest in the appeal. He simply attended the Court and was present when the appeal was heard and dismissed. The 33rd witness who now speaks to the presence of Sivia during the hearing of the appeal, made a wholly different statement before the police. Sivia states that he accompanied the 5th accused to the Jail where the 4th accused, on being told of the collapse of the sandalwood plot, begged him to do something sharp. What that something was to be, did not transpire. I hesitate to believe the unconfirmed testimony of Sivia on this point. He says he was admitted into the Jail by a writer whose name and caste he does not know. He admits that after returning from this meeting he did nothing towards the fulfilment of the 4th accused's wishes. Those wishes even if true, did not amount to an abetment of the very serious crime of murder.

22. The next incident was an interview which Sivia is alleged to have had with the 4th accused in the Chickmagalur Lock-up in February or March 1890. The 4th accused was then removed to that Lock-up to stand his trial on a charge of giving false evidence. Sivia cannot say who the person was that took him to the Lock-up. He alleged that the 4th accused told him to abandon all the previous plots and in conjunction with the 2nd accused, to help the 1st accused who had undertaken to kill Krishna Row with a gun or a sword in return for a reward of Rs. 1000, promised to him. The 4th accused further said that the 5th accused would supply the necessary weapons and money. In his statement before Mr. Venkat Row the witness said nothing about the help that was to be expected from the 5th accused. The witness professes to have refused to assist in the plot until he was promised a liberal reward in addition to the wiping off of the heavy debt due by him and also until a serious threat was uttered by the 4th accused. This interview presupposes an arrangement entered into by the 4th accused with the 1st accused. The 33rd witness who deposes to that arrangement states that there was no mention whatever of a sword and that he was simply asked by the 4th accused to buy a revolver for the 1st accused either here or at Shimoga. That there was any subsequent interview between the 1st and 4th accused before the arrival of Sivia and that, in consequence of the 33rd witness failing to purchase a revolver for the 1st accused, the latter was to use either a gun or a sword, is neither alleged nor proved by the Prosecution. Furthermore if the 33rd witness was to buy a revolver, why did the 4th accused tell Sivia that the weapon as well as the funds would be supplied by the 5th accused? There is absolutely no evidence to show how and when the 4th accused asked the 5th accused to furnish either funds or weapons. It is alleged that the 1st accused was in the Kutugode lodgings here when Sivia came out of the Jail after the above conversation with the 4th accused. One would naturally expect that the 1st accused and Sivia would talk to each other at once as to what each of them had undertaken to do in the matter of Krishna Row. Nothing of the kind however took place. Sivia went away without exchanging a word with the 1st accused.

23. Sivia subsequently chanced to meet the 1st accused at a hotel at Koppa. There is nothing to show that the 1st accused was then aware of the promise which the approver had made to the 4th accused. He nevertheless started the conversation by asking Sivia what the promise was that he had made to the 4th accused in the Lock-up. This was followed by a similar question to the 1st accused by Sivia. The interview ended with a declaration by the 1st accused that he would either cut Krishna Row down or shoot him. But it must be noted that the 1st accused had not undertaken to use any other weapon than a fire-arm. Before the committing Magistrate, Sivia made no allusion whatever to cutting with a sword. In his confession he said that the 1st accused simply declared that he would despatch Krishna Row.

24. Sivia goes on to say that in October 1890 the 5th accused sent him a chit summoning him to Kutugode without a moment's delay. This chit was preserved by the witness while all other chits received by him were destroyed or thrown away. He admits that he had no particular reason for doing so. This chit is marked B. It is a communication admittedly in the handwriting of the 5th accused except the first four letters which constitute the name of the approver. Those letters seem to be in a wholly different hand. They are written in violet ink while the rest of the chit is written in black ink. This is extremely suspicious. I decline to believe that the 5th accused wrote the first four letters with ink taken out of one bottle while he wrote the rest of the chit with a different kind of ink contained in another bottle. It appears to me clear that the chit which was addressed to some debtor or guest of the 5th accused's and which contains nothing but an urgent summons has now been tampered with and made improper use of by the approver. The original name seems rubbed out and the name of the approver inserted in its place. Sivia says that on receipt of this chit, he proceeded to the Kutugode house accompanied by the 2nd accused who unlike him received a verbal and not a written message. These two persons found the 1st and 5th accused waiting for them. It was resolved that Sivia and the 1st and 2nd accused should go to Sosimane and wait there for an opportunity to despatch Krishna Row the next night with a gun. There were two guns lying against the wall. The 5th accused said that one of them was covered by a licence and that his father had requested him to sell it off. It may be remarked here that this statement as to the disposal of the gun was not made before Mr Venkat Row or before the committing Magistrate.

The other gun was to be used. The right barrel was out of order and would not fire. The 3rd accused was called up and he loaded the gun with the powder and bullet given him by the 5th accused from his box. Why the 1st accused did not himself load the gun and why the services of the 3rd accused were called into requisition, I cannot understand. Sivia and the 1st and 2nd accused went to the house of the 2nd accused taking the loaded gun with them. Sivia next returned home saying he would again turn up the next day. Accordingly all these three proceeded to the house of Krishna Row and waited there until midnight. There was a large number of people in the house and some of them came out and sat down on the pial. Krishna Row did not however appear. After a curse uttered by the 1st accused the party left the house of Krishna Row greatly disappointed. All this reads more like fiction than fact. This attempt is said to have been made during the Dassara. It is conceded that that feast attracts a large crowd of people to the house of Krishna Row. They are fed there and they lie down night after night both on the pial and in the kottige and every where else on the premises. Sivia and the 2nd and 5th accused were fully aware of this. That with such knowledge they selected such a night for the execution of their diabolical plot, is a story which I cannot possibly believe. The statement that on such a night and when every body was up in the house, the would-be murderers got into the kottige and stood there for several hours watching the faces of the many people who kept coming out and going in, is so manifestly absurd that I am surprised at the approver's audacity in affirming it.

(To be continued.)

27-3-93.
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THE NEMMAR MURDER CASE.

IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION.

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.
Government of Mysore.

1. Police Ramanna.
2. Sasimane Narasaiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarainbhatta alias Gundappa.

JUDGMENT.

(Continued from our Friday's issue.)

15. Sivia asserts that 3 or 4 months subsequent to the said futile attempt, the 5th accused took him to Shimoga where he had an interview with the 4th accused in the Jail. He was told to look sharp as the 1st accused would be coming again to Kutugode shortly. He does not know who the Jail writer was that afforded facilities for this interview. He says he met the 2nd accused who told him that he had come to Shimoga for Mr. Collins appeal and that a Khandari named Mahomed Shakhani had agreed to help him in the execution of the design on Krishna Row's life. This Khandari denies ever having had anything to do with the 2nd accused. I cannot believe that he was entirely innocent. A letter written to him by Vagale Vencatachellia was found in his possession. He was in some way or other mixed up with the matter of Krishna Row's death, but his testimony coupled with the contents of the letter shows that the conspirators were Sivia and Vagale Vencatachellia and not the 2nd, 4th and 5th prisoners. The person that went to him was Sivia's brother and not the 2nd accused. Sivia states that on the occasion of this visit to Shimoga the 5th accused went to the house of one Chennabasappa and not only asked him to fulfil his promise with reference to Krishna Row but also paid him Rs. 80 out of the money which had been promised him. Chennabasappa has not been called as a witness. It is not clear when and where he had made a promise and to what effect. Sivia's allegation as regards this interview with Chennabasappa has not been corroborated in any way. A post card purporting to have been addressed to the 4th accused by Chennabasappa was found in the possession of the former when his house was searched by the Police. The 4th accused says he does not know who Chennabasappa is and why he wrote to him this card. This is a very unsatisfactory and improbable statement. The card was written to him shortly after his conviction. The writer was presumably the 4th accused's friend and sympathizer. But the materials on record do not justify anything more being said than that Chennabasappa was sorry for the trouble which had come upon the 4th accused through the instrumentality of Krishna Row and that he would gladly see Krishna Row himself get into some serious trouble if he could. The card does not furnish any corroborative evidence of the plot on the life of Krishna Row which is said to have been entered into between the 1st and 4th accused in the Chickmagalore Jail.

26. After returning from Shimoga Sivia admittedly visited Vagale Vencatachellia at Sringeri and held several consultations with him in the matter of avenging the wrongs inflicted on them by Krishna Row. The statement that the 2nd accused was also a party to those meetings has not been satisfactorily corroborated. Vagale Vencatachellia was as much a culprit as Sivia. His testimony is therefore of very little value. The only other witness who speaks to these meetings is the 19th witness Balia who was a neighbour and friend of Vagale Vencatachellia and a *gnati* (or cousin) of the deceased Krishna Row. He states that he saw Sivia and the 2nd accused on two or three occasions in the house of Vencatachellia.

but that on the day preceding the date of the murder, Sivia alone paid a visit to that house. He is an intelligent Patel. But he never said a word about these meetings either to the Head Quarters Inspector or the Assistant Superintendent of Police at the earlier stages of the enquiry. It was on 31st July 1892 that I find him making his statement for the first time before the Amildar: subsequently, that is on 16th August 1892 he was examined by the Head Quarters Inspector. He admits that he then stated that Sivia and 2 or 3 others used to visit Vagale Vencatachellia and hold secret consultation with him. He did not then

mention the name of the 2nd accused. The latter was not a stranger to him. On the contrary they were known to each other for such a long period as 8 or 10 years. His explanation that the 2nd accused is included in the vague expression 'and 2 or 3 others' cannot be accepted as satisfactory. The witness goes on to say that as soon as he heard of the murder he suspected Sivia and Vagali Vencatachellia who used not only to meet often, but also to declare openly that they would serve Krishna Row right. But he does not say that he suspected the 2nd accused as well. Sivia states that at one of the interviews the 2nd accused abruptly told Vencatachellia that the Kutugode boys were thinking of killing Krishna Row with a sword or gun and Vencatachellia observed that that was not the proper thing to do. This however is a statement which Sivia did not make before Mr. Venkat Row. On the whole, I am not satisfied that the 2nd accused ever participated in the secret meetings held by Sivia and Vencatachellia in the house of the latter.

27. Sivia goes on to say that the 2nd accused once lamented that much time was being lost and afterwards asked him to accompany him to Mahomed Sha Khan, which he declined to do. The 2nd accused is said to have then gone to Vencatachellia and taken from him a chit which he delivered to Mahomed Sha Khan who promised to help him but failed to do so. This is the chit of which I have already made mention. The 2nd accused's connection with it is denied by Mahomed Sha Khan whose testimony is certainly not more tainted and improbable than that of Vencatachellia and Sivia. I may also observe that the connection between this side plot with Mahomed Sha Khan and the 1st, 3rd, 4th and 5th accused, has not been established.

28. The next incident brings us to the murder committed on the night of Friday the 6th June 1891. Sivia alleges that on the previous Monday he had been to Sringeri to see Vagali Vencatachellai and consult him about one of his children who was sick. Vencatachellia introduced him to one Bhaskara Pandit otherwise known as the Hindupur Pandit. Sivia and the Pandit returned to Sivia's house in consequence of information received that his other child was suddenly taken alarmingly ill. On Wednesday Vencatachellia came and saw the child and went back. On Thursday Sivia went to Sringeri and saw Vencatachellia. That afternoon the 2nd accused is alleged to have visited Sivia and asked him to go with him, saying that the 1st and 3rd accused and Belandur Ramu (now absconded) had been waiting in his house since Wednesday night. Sivia said that he could not go at once but would go the next evening if the child got better. On Friday morning Sivia sent word to Vagali Vencatachellia, who came accordingly at 4 p. m. accompanied by his friend Lutehia. After seeing the child, they proposed to go back to Sringeri. Sivia begged them to remain in his house that night as he had to go out on important business and was afraid lest his house should be set fire to by the Kutugode people. He explained that the business which required his presence, elsewhere was "a hearing" in the house of the 2nd accused in connection with Krishna Row. Having given his promise he would not be dissuaded by Vencatachellia from going. In the house of the 2nd accused he found the prisoners 1, 2 and 3 and Belandur Ramu with the gun, marked C, before them. The 1st accused thrust his hand into his pocket and taking 7 cartridges out of it placed them on a mat. He loaded the gun with one of them and restored the other 6 to his pocket. He had a bundle of caps with him. He took one of the caps and placed it on the nipple of the gun. (It may be remarked here that he says that cap resembled the small cap marked II and not the big Police cap marked II. Both in shape and in appearance these two are wholly dissimilar). The necessary preparations having thus been made, the party got up in order to proceed to the house of Krishna Row. The 2nd accused excused himself while the other four went to Krishna Row's house which they reached at about 7 p. m. They first looked through the window of the southern room and then entered the kotige through the back door after satisfying themselves that Krishna Row was seated on the pial of the house. The 1st accused fired at that person from a distance of about 4 yards. The party then turned back to go. The 1st accused then stumbled and fell. Sivia helped him to his feet. The party ran some distance and then stood on a mound in order to find out whether the shot had taken effect or had missed. They heard a cry which satisfied them that the shot had proved fatal. They went back to the house of the 2nd accused where the 1st accused restored the gun to the 3rd accused. He counted the cartridges and found that there were only five instead of six. He gave them and the caps to 2nd accused with instructions to bury them in his garden. Prisoners 1 and 3 and Belandur Ramu returned to Kutugode while Sivia went to his own house. The latter ordered

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some cool beverage and drank it. He told Vagale Vencatachellia that the business had been accomplished. The latter and his companion Lutchia were sent back in the dark and with instructions to go by back-paths and to keep strict silence. Sivia went to bed after asking his niece Puttama and the Pandit not to tell anybody that he had gone out that evening. Vagale Vencatachellia makes substantially the same statement as Sivia. Lutchia and the Pandit were not examined, as no useful evidence was expected from them. Vagale Vencatachellia heard of the murder on the following morning. He also saw the Amildar and others proceed to the scene of the occurrence. His friends advised him to abscond. He at once left Sringeri and absented himself for about a month. Such then is the story of the actual murder. That there is some substratum of truth in it, I am quite prepared to believe. The conduct of Sivia and Vencatachellia is elicited from their own evidence, seems calculated to show that they were themselves the murderers. But the question for consideration on whether the accused 1 to 3 had any thing to do with the murder. Vencatachellia does not say that he saw any of those three persons on the night of the crime. Sivia's unsupported assertion is a face of it improbable and incredible. The reason assigned for the two visits paid by him to Sringeri and for Vencatachellia's return visit; is not cogent and satisfactory. The advice given by him to Vencatachellia that he should go back in the dark and should carefully avoid the public road, is incompatible with the supposition of Vencatachellia's innocence. It is not alleged that he was a party to the murder in the same way as accused 1 to 3. It follows that if Vencatachellia was implicated in the murder, the accused 1 to 3 had no manner of connection with it. On Thursday the 2nd accused is said to have told Sivia that Belandur Ramu was waiting in his house since the preceding night. That this is not true is evident from the statement of the 10th witness Maler Subba that he saw B. Ramu at Kutugode on Thursday both in the morning and in the evening. I have already observed that the cap used was not a Police cap. One important link which would connect the disappearance of caps from the Balahonour Station with the alleged murder of Krishna Row by the 1st accused, has thus vanished. Then again, it is scarcely necessary to dilate upon the improbability of the extraordinary conduct imputed to the 1st accused by the approver. What was required was a single cartridge. Why should the 1st accused take seven out of his pocket and expose them on the mat? The story that he stumbled and fell seems invented for the purpose of accounting for the alleged discovery of a cartridge in the kotige on the following morning. The story that there were 6 cartridges in the 1st accused's pocket when he left for Krishna Row's house but that after return therefrom one of them was found missing, seems to have been invented for the same purpose. Why should the 1st accused who had evidently been in possession of the cartridges for several months, take them out of his pocket as soon as he returned from Krishna Row's house and count them and hand them over to the 2nd accused for the purpose of being buried? I may also observe that Sivia admittedly did absolutely nothing beyond accompanying the 1st and 3rd accused to the house of the deceased. Evidently there was no need for his services. Why then was the execution of the plot put off on his account from Thursday to Friday? All things considered, I reject as unreliable so much of Sivia's version of this incident as relates to the part played by the accused 1 to 3 in compassing the death of Krishna Row.

29. Sivia says he saw the 5th accused some 15 days after the murder and was then told that a discharge would be given him in addition to a reward. He also learnt that the 1st accused had been paid Rs 200. The 5th accused denies this conversation which rests entirely upon Sivia's tainted evidence. It is remarkable that Sivia came away satisfied with mere promises. He did not insist upon the prompt settlement of his accounts or upon the immediate payment of the promised reward.

30. Sivia was questioned 15 or 20 days afterwards by the Assistant Superintendent of Police. He said he knew absolutely nothing. How does he explain that statement? He says he made it firstly because he was questioned in the house of his enemy; (the deceased Krishna Row) and secondly because he was in sorrow on account of the death of his child. This is simply absurd. He

admits that he was sent for and asked by the Head Quarters Inspector also, and that even then he denied all knowledge.

31. Sivia again went to Kutugode without being sent for, but what does he say he did on that occasion? He did not demand the discharge and reward to which he was entitled. He simply

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questioned the 5th accused as to what he had paid the 1st accused. In reply he was told that 2 bundies for Rs. 600 were given to the 1st accused in the benami of one Hampapur Ramanna. Satisfied with the information he went back. This conduct of his was, to say the least of it, very strange.

32. We now come to the alleged attempt to divert suspicion from the Kutugode people and to turn the case against a sowcar named Dharnaya Chetty. The 1st accused was for a long time employed on special duty. He offered his services in this case also. The Police Assistant gave him a memo accepting the services offered. It was at that time that the attempt deposed to by Sivia took place. His story is this that at the instance of the 1st and 5th accused he took Vagale Vencatachellia to Kutugode where by promises and threats he was prevailed upon to agree to become an approver. The 5th accused asked the 3rd accused to exhume and fetch the gun. The 1st accused took the gun thus produced. Sivia, Vencatachellia and the 1st accused proceeded to the river and buried the gun near it. Is this a likely story? I am decidedly of opinion that it is not. Beyond a few purchases of cloths, Vencatachellia had no dealings with the 4th accused. He was therefore under no obligation to the Kutugode family. He had nothing to do with the murder. It was no interest of his to screen the real offenders. Why was he sent for and asked to confess? And why did he agree to comply? The whole thing looks extremely improbable and quite unreliable.

33. The 4th accused was released in October 1891. Sivia was subsequently sent for and a demand made on him for the money due by him. He states that, being entitled to a free discharge, he remonstrated with the 4th accused and reminded him of his oft-repeated promise. Being assured by the 4th accused that no payment would really be enforced from him he says he executed two bonds and two patties on 8th December 1891. The falsity of this statement is obvious from the evidence of Pleader Sivaramia who says that at the request of Sivia he got him time from the 4th accused. Sivia would not have begged for and obtained an extension of time by executing fresh documents, if as alleged by him he was entitled to a complete discharge in consideration of the part taken by him in the murder of Krishna Row. Nor would he have quietly accepted the 4th accused's assurance and executed fresh bonds, fixing an early date for the repayment of the debt. Nor is this all. He says he was asked to give documents for some 600 or 700 Rs. in excess of the amount really due by him and that he complied with the demand without enquiring why this excess should be included in the documents.

34. After the expiration of the period fixed in the bonds, the 4th accused sent for Sivia to Yedahalli and made a pressing demand for all the moneys due. Sivia says he repudiated the demand and reminded the 4th accused of the promises which he had made. The 4th accused is thereupon alleged to have threatened to get some papers thrown into Sivia's house by the 2nd accused so as to involve him in trouble. The papers thus referred to were Mutt papers lost in the year 1886. Nothing came of the criminal proceedings instituted in that year regarding the theft of those papers. In the first quarter of the year 1892 the case was re-opened upon receipt of an anonymous petition; the accused persons being Sivia and Seshabatta. In his examination before the Deputy Amildar, Sivia said not a word about the threat uttered by the 4th accused regarding the foisting of the papers into his house. That case was subsequently turned against the 2nd accused in July last at the instance of the Police and Sivia was examined as a witness. Even then, Sivia did not mention a word about the threat. That being so, his present statement does not seem credible. He goes on to say that the 4th accused after some discussion agreed to take Rs. 1,800 in full adjustment of his claim. On the 5th of January 1892 he sold a garden to the 8th witness for Rs 700. He raised Rs 1,100 by the sale of areca nut. He asserts that the 1,800 Rs thus raised was paid by him to the 4th accused. And who was the witness in whose presence he says he made the payment? That person was none other than Vagale Vencatachellia who had previously figured somewhat prominently in certain other matters connected with the murder. No receipt was given because a discharge of the 4th accused in respect of documents which stood in the name of his eldest son Krishna Bhatta could be of no use. The documents themselves were not returned because they were in Krishna Bhatta's possession at Kutugode and not in that of the 4th accused at Yedahalli. As if this were not enough, the 4th accused told Sivia that, in order to divert the suspicion entertained by the Police that they were hand in glove with each other, bogus suits would be instituted against him on the discharge documents and that they should not be contested by him. Sivia not only agreed to this but also allowed the suits to be decreed against him *ex parte*.

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35. About that time, Sivia got an anonymous or pseudonymous petition sent up against the 4th accused in connection with this murder. He also signed a petition containing certain allegations against the 4th accused and praying that no attachments before judgment should be issued at his instance. The property of Sivia was nevertheless attached before judgment on the 4th accused's application.

At that time, the Amildar as a special officer recommenced the enquiry into this case of murder which had been previously dropped several times. On more than one previous occasion an unsuccessful attempt had been made to induce Sivia to confess.

36. It is under these circumstances a most extraordinary story that Sivia who was greatly grieved at the 4th accused's unfair treatment of him, dreamt a dream just at the time when the Amildar had reopened the case and was engaged in collecting and recording evidence against the prisoners now before the Court. The coincidence is as remarkable as it is suspicious. I have no hesitation in disbelieving the story of the dream.

37. After the conviction of the 4th accused Sivia borrowed Rs. 2,800 from Dharnia Chetty by hypothecating to him all his property. The debt due to the 4th accused was an unsecured one. Sivia again borrowed of the accused's eldest son Rs. 1,000 by promising to discharge the debt due to Dharnia Chetty and to mortgage in favor of the 4th accused the property which would thus be relieved from encumbrance. But he did not fulfil this promise. In January 1892 he sold off a garden to his relative Vencatachellia Bhatta. On 30th July 1892 (during the enquiry into the murder by the Amildar and about the date of the attachment and dream) he conveyed the whole of his remaining property to a young man by name Sitaram-bhatta for Rs. 2,500. The vendee is admittedly a pauper. From his boyhood he has been living, partly with Sivia and partly with the latter's father-in-law. His sister has long been working in the houses of Sivia and his father-in-law. He had not a pie with him on the date of sale. It is made to appear that he borrowed Rs. 500 from Sivia's sister's son-in-law and paid the same to Siva on the date of the sale. Dharnia Chetti to whom the balance of Rs. 2,000 was to be paid was not even made aware of the transaction. The vendee admits that he has no other means of paying off the encumbrance than from the produce of the lands included in the conveyance. The writer of the sale-deed is no other person than Honnedevasthan Nagappa who was formerly in the service of the 4th accused who has now fallen out with him and has become his inveterate enemy. This Nagappa went to the Amildar and gave information against the prisoners on the 27th July 1892 and then wrote the sale-deed 3 days afterwards. Sivia thus sent up petitions against the 4th accused and placed all his property beyond the reach of the latter. Having done this and after begging the 4th accused in vain to deal with him leniently he next invented the story of an old lady appearing in his dream and advising him to give true information to the Sirkar as regards the murder. He accordingly offered to disclose the truth if a pardon were promised him. I don't believe that he had no hope of a pardon when he made his statement before the Amildar on 6th August 1892. The Amildar caused an oath to be taken by him in a temple. He did not take down his statement but waited for the arrival of the Head Quarter Inspector. The latter kept him under surveillance for nearly a fortnight and then recorded his statement. After his admission to the Lock-up as an approver, the old guard was removed and a fresh guard placed over him. One or two Policemen who had interested themselves in the detection of the case seem to have had access to him in the Lock-up.

38. Not only did Sivia several times deny all knowledge, but he also on one occasion, that is on 25th June 1891, endeavoured to divert suspicion from himself and direct it against a Shikar by name Singa whose father had a grudge against the deceased.

39. He now admits that he gives evidence against the accused out of animus.

40. I think I have said enough to show that Sivia is a most untrustworthy and dangerous witness. He is anxious to save himself and at the same time to satisfy his grudge against the 4th accused. I was not favourably impressed with his demeanour while under examination. The conclusion at which I arrive is that the tender of pardon to him was a mistake and that his testimony is interested, unsatisfactory and wholly incredible.

41. The next witness whose evidence is material is Masti the 11th witness. He was the cowherd of the deceased. He says he was carrying firewood to the house of his master at 12 noon of the Friday in question when the 2nd accused met him and asked him whether the deceased was at home. The witness replied that Krishna

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Row had gone out for the Durgi Samaradhana. The 2nd accused without uttering a word more went away by a path leading to Kutugode and other places. This statement has only to be compared with the statement made by the witness before the Amildar on 9th June 1891 to warrant its being entirely discredited. He then said that the 2nd accused stood in the road with his eyes directed towards the house of Krishna Row; that he asked the 2nd accused what he was standing there for, and that the 2nd accused went away saying "for nothing." The 2nd accused thus did not enquire about Krishna Row nor was he given any information as to his whereabouts. It must be noted here that this witness did not come forward until 3 days after the murder. That he made his statement earlier either to the deceased's brother or to the Jemadar has not been made out. The Police Assistant did not himself believe this witness.

42 Maler Subba (10th witness) is the next witness whose testimony I now propose to consider. He was formerly in the service of the 5th accused who engaged him after his father's removal to the Jail. Admittedly he was working at Herur and not at Kutugode. He says however that he was sent for to Kutugode about a month prior to the murder. He alleges that on the Wednesday preceding the murder, the 1st, 2nd and 5th accused and Belandur Ramu and Krishna Bhatta were sitting on the pial of the Kutugode house when Linganna (a servant of the 4th accused) brought a double barrelled gun saying that Tekkur Seshanna had not repaired it as promised and that therefore it should be sent to Koppa. The 5th accused received it and handed it over to the 1st accused. That night the 1st and 3rd accused and B. Ramu sat up on the pial while all the others went to sleep. The 1st accused fired the left barrel and then gave the gun to the 3rd accused and asked him to fire the other barrel in the cattle shed if the tiger which had hurt a calf on the previous evening should again make its appearance there. The witness carried a lamp for the 3rd accused. No tiger visited the cattle shed. The hammer was tried by the 3rd accused but would not strike. The cap dropped down. The 5th accused returned to the pial and gave back the gun to the 1st accused saying that the hammer was damaged and would not act. The first accused thereupon took some powder from a white roll of paper of the length of a finger, stuffed it into the nipple and applied a match to it. The powder blazed back and burnt the first accused's hand. The 3rd accused went back to his house while the rest slept in the 4th accused's house. On Thursday morning the 1st and 2nd accused were found missing while B. Ramu was there both in the morning and in the afternoon. The latter slept in the Kutugode house that night. (Thursday.) He was however missed on Friday morning. The witness went away to some other village to collecting his master's money. After his return he saw the 1st accused who left Kutugode on Sunday. The witness adds that he told the Police Assistant all about what he knew, and that the 5th accused got angry with him for so doing and dismissed him some 3 or 4 months afterwards. Tekkur Seshanna has not been examined. Before the Police Assistant on 13th July 1891, the witness did not say that Linganna brought back a gun and gave it to the 5th accused. Contrary to his present statement, he stated before the Police Assistant that the 3rd accused went away giving the gun into his hands to be carried back to the 1st accused and that he in his turn handed it over to one Venkatagiri who returned it to the 1st accused. Before the Police the witness stated simply that the 1st accused fired off the gun. He has now improved upon that story and stated that the 1st accused had a roll of paper with him and that the powder was taken out of it and put into the nipple. The reason of this improvement is evidently this, that a cartridge is attempted to be traced to the 1st accused so as to make the story of the witness fit in with the case alleged by the prosecution. The witness states that he saw the 1st accused for the first time on the evening on which experiments were tried with the gun and that the people then present told him that he was "Police Ramanna." Further on however he says that he had seen him the previous day on his way to Halgar but that he did not then know who he was. Again he stultifies himself by saying that he had once before seen him near the 5th accused's coach shed but did not then know who he was. Lastly he states that he had previously seen him and made his acquaintance in the house of the 4th accused and that when he met him on the way to Halgar he not only recognized him and accosted him but also asked him where he was going and was in reply told that he was going to Kutugode. The witness is not able to identify the gun. He owns no house or lands and is a pauper. He is not on terms with the 5th accused who turned him out. He admits that he was kept in Police Daffadar Seonappa's house for a day before going to the Head Quarters Inspector after night fall. There was no meaning in the experiments alleged to have been tried with the gun. Altogether the evidence of this witness does not commend itself to me as worthy of credit.

To be continued.

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THE NEMMAR MURDER CASE
IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION.

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.
Government of Mysore.

- 1. Police Ramanna;
2. Sasimane Narasuiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarainbhatta alias Gundappa.

JUDGMENT.

(Continued from our yesterday's issue.)

43. I shall now deal with the evidence of Hon^{ble} nedevestan Nagappa to whom passing allusion has already been made. He was formerly a servant of the Kutagode family. I do not believe the 4th accused's assertion that

"I have used Chapoteant's Peplone Wine for more than a year in my practice and at the present time have several patients taking it, who like it very much and find that where a combined stimulant and nutritive is required, it is unsex^d called." D STONOR, M.D.

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this witness did not in any way interest himself in Sidla Nanjundabhatta's case and in the false evidence case. The documentary evidence on this point is clear and conclusive. A35 is an account book kept by Nagappa. If true it shows that Nagappa was in Chickmagalur and Shimoga during the progress of both the cases and spent moneys on account thereof. This book was produced before the Yedahalli Munsiff by the 4th accused himself. The latter explains that he received it by post after he had filed his suits against Nagappa. That this is a false statement is evident from the testimony of the pleader to whom he delivered the book for production in Court. He did not tell his pleader that the book had been sent to him by post. He did not condemn the book as a completely false record manufactured by Nagappa for a sinister purpose. On the contrary he relied upon the book as proof of his allegation that Nagappa had not accounted for the 50 rupees drawn on the hundi which had been forwarded to him from the Shimoga jail. There is not a particle of evidence to substantiate the assertion that the book was received by post. Nagappa states that he gave the book to the 4th accused's son Krishnabhatta when he settled the accounts with him. It is true that Krishnabhatta denies this allegation but I am not prepared to believe the denial. About a month after the disposal of the false evidence case the accused admittedly wrote letter A70 to his son, the 5th accused from the Shimoga Jail. That letter asked the 5th accused to take from H. Nagappa an account of moneys spent by him during the preceding 15 months as well as his (Nagappa's) own accounts. The 4th accused again wrote to the 5th accused from the Shimoga Jail on 2nd May 1890 (see letter A71). This letter asked the 5th accused to take back "Sirkar records" from Nagappa and to settle accounts with him. Letter A61 which was a notice issued to Nagappa by the 4th accused is still more explicit. It calls upon Nagappa to render an account of moneys spent during the pendancy of the 4th accused's "case." The 4th accused admits the genuineness of this note. In the account book produced by the 4th accused I find that there are entries almost corresponding to the entries of credit and debit recorded in exhibit A 36. It shows that a settlement of accounts did take place upon the basis of A36. As regards the entries in the 4th accused's accounts no proper explanation is forthcoming. There is also some oral evidence which goes to supplement the documentary evidence I have thus noticed. I am perfectly satisfied that Nagappa did go to Shimoga and Chickmagalur and take an interest in the two criminal cases, which were tried against the 4th accused in September 1889 and February and March 1890.

44. He does not depose to anything that took place during the trial of the first of those cases. For the second case, he came to Chickmagalur with the 4th accused. He states that he saw the 4th accused in the Lock-up almost every day during the whole time that the 4th accused remained here. There may be a little exaggeration in this. The 4th accused was a convict as well as an under-trial prisoner. The jail writer, who is supported by the Registers, states that raw rations used to be issued to the 4th accused who used to cook his own food. I see no sufficient reason to discredit

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his statement. The peon who is alleged to have freely admitted Nagappa into the Lock-up every day denies the truth of Nagappa's assertion. I am willing to believe that there was some laxity on the part of the lock-up officials and guard and that occasional visits to the Lock-up by Nagappa were quite possible. Moreover the co-prisoners of the 4th accused were not convicts like himself, and cooked food was therefore taken to them by their friends of whom Nagappa was probably one. Those visits seem to have afforded Nagappa an opportunity of seeing the 4th accused in the Lock-up and speaking to him. He states that on one of those occasions the 4th accused gave him memo marked A 46 and asked him to send for Sivia and the 2nd accused in order to enable the latter to lodge a complaint of forgery against Krishna Row. It would appear that the 4th accused was for sometime managing the affairs of the Hariharpur Mutt. A petition was sent up to the Dewan's office accusing the 4th accused of misappropriation and mismanagement. A large number of persons signed the petition including Krishna Row. The petition was referred to the local authorities for enquiry and report. The 2nd accused whose signature the petition purported to contain denied all knowledge of the petition, and alleged that the signature was a forgery. He applied for copies of papers relating to that matter but did not succeed in getting them. A 46 is a memo admittedly in the handwriting of the 4th accused. It shows that the 4th accused wished the 2nd accused to prefer a charge and to cite Nagappa and Sivia as his witnesses. The 4th accused denies Nagappa's statement as to its delivery in the Lock-up at Chickmagalur in February or March 1890. He asserts that he prepared the memo and left it among the Mutt records which were accessible to Nagappa, long before his removal to Chickmagalur on account of Sidla Nanjundabhatta's case. The memo contains inherent and indisputable proof of the falsity of this assertion. The list of witnesses given in it contains the name of "Amildar Latchminarappa now at Seringapatam" that is to say the memo was written after the transfer of Latchminarappa from Koppa to Seringapatam. Official report marked B 51 shows that this Amildar handed over charge of the Koppa Taluk to his successor on 21st November 1889. It is clear then that the memo was written subsequent to that date. It follows that it was prepared during the pendency of the false evidence case and not before the 4th accused's removal on account of Nanjundabhatta's case, which had preceded it. The 4th accused was in the Lock-up here when it was written. That it comes from Nagappa's custody cannot be denied. How then did he obtain possession of it? The 4th accused does not say that he lost it in the lock-up. There can therefore be no doubt that it was delivered to Nagappa by the 4th accused in the Lock-up. There are several other official papers which admittedly belong to the 4th accused but which now come from Nagappa's custody. The 4th accused's statement that he gave them to the writer of the lock-up to be forwarded by him to his relatives, is shown to be false by the testimony of the writer. It is manifest that these were also delivered to Nagappa in the Lock-up by the 4th accused. These are presumably "the Sirkar record" referred to by the 4th accused in his letter marked A. 71. It is thus obvious that Nagappa did see the 4th accused and talked to him in the Lock-up about the charge of forgery and about other matters. I think it is a fact that Nagappa sent word to Sivia and 2nd accused as desired by the 4th accused. He does not however personally know whether they saw the 4th accused in the Lock-up and talked to him or what that conversation was about. The incident he deposes to is quite a different one. He states that before the arrival of the 2nd accused and Sivia the 4th accused changed his mind and asked him to bring the 1st accused to the lock-up. He took the 1st accused accordingly and was present at the conversation which took place between him and the 4th accused. In consideration of a reward of Rs. 1000 promised by the 4th accused the 1st accused took an oath that he would soon despatch Krishna Row. To enable him to do so, he asked the 4th accused to get him a revolver of five chambers. The 4th accused directed Nagappa to buy one and give it to the 1st accused. The question is whether this statement of Nagappa is probable and reliable. Nagappa is the only witness who deposes to this compact between the 1st and 4th accused. I shall show further on that he is now on terms of the bitterest animosity with his former master, the 4th accused. I consider it most unsafe to place much reliance on his evidence. His subsequent conduct seems to belie his assertion. He states that the 1st accused came to him the same day and asked him either for a revolver or for money to buy one. He replied that he would see about it the next day. It may be noted here that Nagappa did not mention a word about this conversation in his deposition before the Police. He was again reminded of his promise on the following morning. He then told the 1st accused that he could

not either get him a revolver or pay him money for the purchase of one. This statement is in conflict with the statement made by the witness before the Police. He then alleged that he did not make a refusal but simply said that he had not sufficient money with him and that he would think over the matter of buying a revolver for the 1st accused. What followed is most remarkable. Nagappa states that this question was altogether dropped, that is to say, neither the 1st accused nor the 4th accused ever told him a word about the revolver either at any of his subsequent meetings with those persons or on the way back to Shimoga from Chickmagalur. Is this consistent with probability? I think not. Would not the 4th accused have asked him whether he had bought a revolver for the 1st accused? Would not the 1st accused have again asked him for the revolver or for money for buying it? Would he not have complained to the 4th accused that Nagappa had not got him a revolver? Is not all this sufficiently strange to justify the story of the compact being discredited?

45. Nagappa produces a Nagri letter written in pencil (A44) and says it was sent to him from the Shimoga Jail before the removal of the 4th accused to Chickmagalur in February 1890. The letter purports to have been addressed to Nagappa and Iyagala Vencataramania. It bears neither date nor signature. It is very suspicious in appearance. The 4th accused denies the genuineness of this letter. There is no satisfactory evidence to prove that it is in the handwriting of the 4th accused. After all there is not much in this letter. It simply asks that a rupee be sent through Jail peon Kencha Hanuma for the purchase of snuff, &c, and proceeds to say that the 4th accused will join the Hospital and try to prevent his being sent to Chickmagalur.

lore. It is possible that Kencha Hanuma was doing the 4th accused such little favours as stealthily importing into the Jail snuff and eatables for him.

46. After about a month's stay at Shimoga, Nagappa went back to Kutugode in or about the month of April 1890. He met the 1st accused in that neighbourhood and wrote for him Diary marked A57 which records his movements from the 10th to the 21st of September 1890. The 1st accused admits that during that period he was moving about near Sringeri as he was on special duty in connection with a certain case of murder. This circumstance shows nothing more than that it was possible for him to have met the 5th accused and talked to him in the month of September 1890.

47. Nagappa states that the accused 1 and 2 and Sivya and Vencatachellia used to frequent the house of the 4th accused after his return from Shimoga. This is a very vague statement and is not of much value. Moreover it is an improvement upon the statement made by the witness before the Police. The names of Sivya and Vencatachellia were not then mentioned.

48. Nagappa does not depose to anything else that happened until some 2 or 3 months after the date of the murder. He states that shortly before the date of the enquiry held by the Assistant Superintendent of Police in September 1891, the 1st accused came to him and took him to the house of the 5th accused, a circumstance which he did not mention in his statement before the Amildar. The 5th accused is alleged to have told the witness that, as desired by the 4th accused in his letter the case should be turned against Dharmia Chetty and that the witness should give evidence accordingly. The witness pretends to have first refused to comply and to have subsequently yielded to the 5th accused's pressure. He says the 4th accused's letter was shown to him by the 5th accused. He admits that he said not a word about the letter either before the Police or before the Magistrate. Further on, he denies that the 5th accused either referred to any letter or shown it to him. He went to Chickmagalur and gave evidence implicating Dharmia Chetty, Thammia Chetty, Mahomed Shahkhan and Vencatachellia. He asserts that that testimony was wholly false from beginning to end, and that he made it at the instigation of the 5th accused.

49. On receipt of letter A 61 Nagappa went to Shimoga and saw the 4th accused in a certain temple. He makes the absurd statement that the 4th accused sent him that letter or rather notice because he had failed to meet the 4th accused at Shimoga on the date of his discharge from prison. On that occasion the 1st accused is said to have presented himself before the 4th accused and begged him with tears in his eyes to pay him the balance of the reward to which he was entitled. The 4th accused refused to pay it on the ground that the 1st accused had improperly gone to Kutugode and spoilt the whole affair. That this demand and refusal is an after-thought is evident from the admitted fact that Nagappa did not make any mention whatever of it in his examination before the Police.

50. Nagappa was afterwards dismissed from service by the 4th accused who further instituted two suits against him. He ascribes the hostile attitude of the 4th accused to his (Nagappa's) refusal to give false evidence against certain persons as desired. He states that he was not told in what way he should assist the 4th accused and what evidence he was to give. This differs materially from his statement before the police that he was asked to forge certain papers and to testify to their authenticity.

51. Lastly the witness deposes to the production of certain papers by him from his own records as well as from Iyagala Vencataramania's dufter, and to their being in the handwriting of the 4th accused. The papers were produced in several instalments. The circumstances connected with their production amply prove Nagappa's vindictive spirit. The story that Iyagala Vencataramania had left his dufter in the house of Nagappa seems to be wholly untrue. The Kanarese papers are admitted, while those written in Nagri are denied by the 4th accused. The evidence on record does not satisfactorily establish the genuineness of the latter. A couple of interested and incredible witnesses profess to be able to recognise the 4th accused's handwriting in those papers. The evidence of Vencatabhatta, the 5th witness for prosecution shows that Nagappa is capable of forging the 4th accused's handwriting and that he actually forged a handi on one occasion and drew money upon it. After all there is not much important matter in most of the papers produced by Nagappa. One of them is exhibit A41, which has already been dealt with. A 46, A 47, A 50, A 51, A 52, A 53, and A 54 are the official papers which, as already observed by me, were delivered to Nagappa in the Chickmagalur Lock-up. A 61 is the 4th accused's notice requesting Nagappa to come and settle his accounts. A 48 is a long letter purporting to have been written by the 4th accused to his sons. It is dated 15th March 1890 and is alleged to have been given to Nagappa in the Lock-up for the purpose of being posted. The statement that letters used to be written in Nagri whenever secret matters had to be communicated does not hold good in the case of this letter which simply asks the 5th accused and his broker to take Jamakarch Patties from Iyagala Vencataramania, Nagappa and Seshabhatta. It also requests that Nagappa's pay be stopped for the period of his absence from duty. There is nothing secret in these matters nor in the contents of the rest of the letter. Nagappa says he suppressed this letter because it was not quite favourable to him. That he is an unscrupulous character, is demonstrated not only by this admission but also by the fact that when he settled accounts with the sons of the 4th accused he did not bring the letter to their notice but drew full pay for the period during which he was absent. I may also observe that admittedly he did not inform the 4th accused of this when he subsequently spoke to him about the settlement. Letter A 49 purports also to have been written to the 5th accused and his brother Krishnabhatta by the 4th accused. Among other matters it asked Krishnabhatta, (1) not to pay money to anybody without a previous consultation with the 5th accused and Iyagala Vencataramania (2) not to let go the 2nd accused; (3) to resort frequently to the 5th accused for advice and (4) to sell off at once the gun which was in the house. If genuine, it shows *inter alia* that the 5th accused was a more capable man than his elder brother. This fact is relied on as explaining why the 5th accused instead of his elder brother interested himself in the murder of Krishna Row. I attach no value to this argument. The reference to the 2nd accused does not in my opinion mean that the 4th accused considered him to be a useful instrument and was anxious that his assistance should be secured. On the contrary I think it means that he should be pressed to repay the debt due by him. And now as to the gun, it would appear that there was an old gun. In the house and that after the 4th accused's release it was sold off to a servant of his from whom the Police have since taken possession of it. The 4th accused's request could only refer to that gun. That request does not necessarily lead to any adverse inference. The other letters are A 64 to A 67 and I shall deal with them later on along with the evidence of Iyagala Vencataramania in whose dufter they were found.

(To be continued.)

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THE NEMMAR MURDER CASE.
IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION,

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.
Government of Mysore.

v.s.

1. Police Ramanna;
2. Sasimane Narasaiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarainbhatta alias Gundappa.

JUDGMENT:

(Continued from our yesterday's issue.)

52. I am of opinion that Kencua Hanuma of the Shimoga Jail has not told the truth. He made some audacious allegations against several respectable persons and I have no hesitation in holding that they are wholly false. I strongly suspect that there was some laxity in the management of the Shimoga Jail and that unauthorized communica-

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cations and interviews between the 4th accused and his friends thus became quite possible. But I think Nagappa grossly exaggerates matters when he says he received as many as 20 or 30 chits from the 4th accused during the short time of two or three months that he was at Shimoga. He told the police that he had destroyed all those chits. He now says that that is a false statement and that he delivered all the chits to the 5th accused. Such contradictory statements clearly prove that they are made recklessly and without any foundation. Before the Magistrate, Nagappa did not refer to any visits paid by the 5th accused to his father in the Jail. He now makes that statement for the first time.

53. He asserts that he once paid the 1st accused Rs. 10 at the request of the 4th accused. It is noteworthy that he made no such statement before the Police. It is an important matter and would not have escaped his notice when he was examined by the Police. A36 contains an entry of Rs. 10 against some person whose name has been scored out so carefully as to make the deciphering of it an impossibility. This book was in the Munsiff's Court from which it was obtained after Nagappa's examination by the Police. He finds a scored out entry in it and taking advantage of it endeavours to show that the name scored out is that of the 1st accused. But there are some strokes visible which make his assertion highly improbable.

54. This witness has had dealings with Seshabhatta who has been taking a suspiciously keen interest in this case against the accused. He has himself shown an extraordinary amount of interest in the investigation of this case by the Police. He produced one Bellia and was present at the search of his house. He went to Shimoga and was present when evidence was being collected there by the Police. He was likewise present when several of the important witnesses were examined in other places by the Police. My impression is that he has throughout been actively helping the Police in the working up of this case. For eight months after his dismissal, he never opened his mouth. Subsequently there was a complete change in his attitude owing to the suits filed against him by the 4th accused and to the attachment made therein. In answer to those suits he produced a patti or discharge bearing the attestation of Vencatachellia, who is a most untrustworthy witness and whose assistance seems to have been secured in order to bring the accused into trouble. Another such person is Iyagala Vencataramania who is a friend of Nagappa's and who is a witness for the latter in the suits mentioned above. Nagappa is, as already observed, the writer of the sale-deed executed by Siviah in favor of Seetaram Bhatta. He is one of those that sent up a petition against the 4th accused so far back as in March 1892, and yet he did not testify to the 4th accused's complicity in this crime until so recently as the end of July 1892. Such then is the man upon whose evidence the Court is asked to hold that there was a compact between 1st and 4th accused as regards the murder and that certain other circumstances exist which show that the accused 1 to 5 committed the murder in pursuance of that compact. In my judgment it is positively dangerous to attach even the slightest value to evidence of this description. The Assistant Super-

intendent of Police has himself given him a very bad character. This Officer says the witness is a notorious and great hand at giving and getting up false evidence.

65. Another witness whose testimony relates to matters of some importance is Iyagala Vencataramania the 36th witness who is also ex-servant of the Kutugode family. He states that exhibit A44 was received by himself and Nagappa. This letter has already been dealt with. His next allegation is that during the pendency of the false evidence case (otherwise known as the sanction case) the 5th accused visited his father in the Lock-up. He admits however that he has no personal knowledge of that visit or of what took place on that occasion. He says the 1st accused was then in the habit of visiting the Kutugode bidara (lodging) here. This even if true cannot prove anything more than that the 1st accused knew the people of the Kutugode house. This witness goes on to say that on a certain day he went and saw the 4th accused in the Jail. The 4th accused then told him nothing whatever about Krishna Row. Shortly after his return, a peon is said to have brought five papers from the 4th accused given them to him. He does not know who that peon was. The peon did not tell him what should be done with the papers. They are all written in Nagri. These are the five letters (A49, A67, A64, A65 and A66) produced by Nagappa from Iyagala's duffer. Of these A49 has already been commented upon. A64, A65 and A66 are enclosures to that letter and are addressed to, one Ramappa, Seenappa and Subbanna respectively. A 67 requested Krishna Bhatta not to do anything without first taking the advice of Iyagala Vencataramania and 5th accused. The genuineness of these letters has not been proved. Moreover there is nothing in them calculated in any way to strengthen the case against the accused. The witness states that he gave the letters to the 5th accused who asked him to read them to his mother. After reading them to her, he secured them in his own duffer though admittedly they were of no manner of use to him. This is somewhat strange. In Shravana (September or October 1890) the 5th accused and the witness went to Shimoga. The latter states that the 1st accused joined him at Koppa and went with him to Shimoga where he had some Sirkar business to attend to. The 1st accused admits that he accompanied the witness a short distance and explains that he was then on special duty in connection with the arrest of one Ganapia. The witness goes on to say that the 5th accused and himself went to the Jail and had an interview with the 4th accused. He did not hear the conversation carried on between the 5th accused and his father. The witness simply asked the 4th accused what should be done as regards the Mutt affair, and was in reply told that he need not trouble himself about it. The witness admits that when questioned by the Police Assistant after the death of Krishna Row he said he knew absolutely nothing. Shortly afterwards, he says he went to the Kutugode house one day and there found the 5th accused and one Vencatabhatta, Iyabhattacha Subbia and the 5th accused. He does not recollect who else was present. He does not depose to the presence of the 1st accused at that place. He does not testify to the several matters deposed to by Vencata Bhatta whose evidence will be discussed hereafter. The witness asserts that the 5th accused sent him and Iyabhattacha Subbia to Shimoga in order to deliver a chit to the 4th accused and to bring a reply from him. They saw the 4th accused through the Jail officer. The 4th accused took the chit and sent a very short reply by word of mouth. That reply was that the 5th accused should not admit "that Ramanna had come." The witness did not understand what this message meant and who the Ramanna referred to in it was. He did not go back to Kutugode and deliver the message to the 5th accused. He went away to Kundapur after charging Iyabhattacha Subbia with the carrying of the message to Kutugode. This Subbia was examined as the 15th witness for defence. He denies the truth of Vencataramania's statement *in toto*. There is no doubt that he was present when petitions A76 and A77 were drafted for the 5th accused and his brother. But this fact does not shew that his denial of the matters deposed to by the 36th witness is false. Lastly the latter states that he once saw the 1st accused at Kutugode. He cannot however say when. This may be perfectly true, but it proves nothing whatever. The witness identifies the Nagri letters which are denied by the 4th accused. It will be seen that there is thus not much in the evidence of this witness. What little there is, does not appear to be reliable. The witness admits that he quarrelled with the 4th accused and quitted his service. The 4th accused sent him a notice threatening him with a prosecution in connection with Mutt funds. He is angry with the 4th accused who failed

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to give him the remuneration promised him for extra work. This witness and Manjappa who are both inimical to the 4th accused and are taking much interest in this case, once gave evidence against the 4th accused in a civil suit. This individual is a witness for Nagappa in the suits which the 4th accused has filed against him. He did not say a word against the accused until this case, after being several times dropped, was taken up in July last. I think I am fully justified in saying that his present testimony is not above suspicion. Before dismissing his evidence I may observe that it discloses that the deceased had a large number of enemies.

56. I now come to the evidence of Vagali Vencatachellia (42nd witness) as regards whose veracity I have already incidentally made some observations. I shall proceed to examine his statement at some length. He is not a Suttiya-kula of the 4th accused. He used to deal with Manjappa who is an enemy of the 4th accused. He simply purchased a few cloths, and perhaps obtained a few small loans from the 4th accused. He was not therefore much interested in the 4th accused. He begins by making the most damaging assertion that at the request of Kavadi Vencatabhatta, he induced his brother to perjure himself in favor of the 4th accused in consideration of a bribe of rupees 200. He states that he saw the 5th accused at Kutugode after the dismissal of his father's appeal in Nunjundabhatta's case. Nothing took place on that occasion beyond a lamentation by the 5th accused that his father had always failed while Krishna Row had invariably succeeded. The sympathy and assistance of the witness were not invoked. Why the 5th accused should have lamented before him in the manner stated above, I cannot understand. Sometime afterwards the 2nd accused and this witness went to Kutugode to congratulate the 5th accused upon the collapse of the sanction case.

And yet, he says he asked the 5th accused how that case had terminated. It is alleged that the 5th accused then told the witness and 2nd accused that it was useless getting up cases against Krishna Row, that the 4th accused had engaged the 1st accused to break Krishna Row's limbs, that the 1st accused had however failed to turn up and that some other strong man would do just as well if he could be got. This idea of maiming Krishna Row is something new. According to Nagappa and others the 1st accused had undertaken to shoot or stab and not to maim. This shows that there could be very little truth in the statement of this witness. The witness says that the 2nd accused and himself were not asked to do anything but that nevertheless they told the 5th accused that they would help him if they could. The witness says he met Khandhari Mahomed Shakhani and offered to reward him liberally if he should kill or maim Krishna Row. The Khandhari agreed but said that he would do the needful at some other place than Nemmar. This statement may be perfectly true. It shows that the witness was himself anxious to do away with Krishna Row. He says he met the 2nd accused and informed him of the Khandhari's promise but that the 2nd accused replied that the Khandhari's services were unnecessary as the 1st accused had undertaken the business. This is not corroborated in any way. The witness removed to Sringeri about that time and he deposes to several visits which the 2nd accused and Sivia paid him there. At one of those visits the 2nd accused observed the 1st accused had undertaken to shoot Krishna Row, but that as a gun could not be got for that purpose he was going to cut down Krishna Row, with a sword. This cannot possibly be true. There is a patent inconsistency on this point. It was said by Sivia and others that there was a gun in the house of the 5th accused and that that was the weapon used in murdering Krishna Row. This witness contradicts Sivia as to the abrupt remark which fell from the 2nd accused's lips on the said occasion. The next point spoken to by the witness is the delivery of letter A89 to the 2nd accused to be carried by him to the Khandhari. I have already discussed this point. The letter was taken to the Khandhari, not by the 2nd accused, but by an old man who represented himself to be Subbia, the elder brother of Sivia. That the witness wrote and sent the letter is clear. It shows that he was himself anxious to get somebody to take his enemy Krishna Row's life. The Khandhari received the letter but did not waylay Krishna Row and murder him. The witness went to the Khandhari and demanded the return of the letter, but was in reply told that the letter had been destroyed. This took place some 20 or 30 days before the date of murder. Two days before the murder, the witness says he went to Sivia's house to see his child. These two met again at Sringeri on Thursday and at Sivia's house on the evening of the murder.

for breaking

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The witness says Sivia alone went out in order to concert measures to kill Krishna Row, Sivia returned at 9 P.M. and said, that the business had been done. As admitted by Sivia, the witness and one Lutchia returned forthwith to Sringeri. On the way they met Kalubhatta who offered them a torch which they declined. This portion of the evidence affects the witness himself and Sivia and not the accused 1 to 5. The witness made himself scarce for some time. This is inconsistent with his plea of innocence. Sometime afterwards he says, he consulted Sivia's father-in-law Kanakotlu Manjappa who advised him to go to the Police Assistant and tell him all that he knew. He states that he was going to the Police Assistant when Duffadar Thammia stopped him and removed him to Sringeri where he took down his statement. The Duffadar has not been examined, but, I find from the record that he denied the truth of this story when questioned by his official superiors. It seems to me that the witness was running away in order to avoid the Police, but that he was caught by the Duffadar and secured and sent to the Police Assistant who happened to be at Agalgundi holding an enquiry into this case. On being questioned by the Police Assistant, he admits that he said he knew nothing whatever. This shows that he could not have made a statement before the Duffadar. His explanation that the denial was the result of the Duffadar's tuition is absurd on the face of it. At Agalgundi he says he heard an admission made by the 5th accused to Venkatabhatta and Iyabhatta Subbia. As regards the particulars of the admission there is a material conflict between the statements of this witness and Venkatabhatta while Subbia denies all knowledge of it. Then again the presence of this witness on that occasion is negatived by the testimony of Venkatabhatta. In his examination before the Police this witness stated that the Duffadar took the 5th accused to the temple and there promised to save him if he told the truth, and that thereupon the 5th accused made an admission. He is not now prepared to say positively that the Duffadar was not then present. The 5th accused was in the hands of the Police, though he had not been formally arrested. If at such a time he made an admission before the Police Duffadar that could not be used as legal evidence against him. The witness remained at Agalgundi for about 8 days and was next taken to Sullebail, where he says, he again denied everything at the instigation of the Duffadar. He went back escorted by a constable. He says that there was an unjust suspicion against him and that therefore he asked that a constable be sent with him. In the same breath he alleges that he wanted the constable to go with him as he had to cross a couple of streams which were then in flood. This is too absurd to be believed. The witness states that he was sent for to the Kutugode house where the 1st accused advised him to prefer a complaint against the Police. He refused to do so and was sent away with a request that the 2nd accused and Sivia be brought to Kutugode. The witness alleges that in September 1891, Sivia came to him and told him that the 5th accused wished him to accept a pardon and to turn the case against Dharnia Chetti. He now pretends to have refused to do so. Before the Police, however, he said nothing of the kind. The witness goes on to say that he went to Kutugode where the 1st accused urged him to confess after securing a promise of pardon from the Police Assistant. The witness after some show of unwillingness, consented to do so. Why he thus agreed to put a noose round his own neck seems wholly unintelligible to me. A gun was next buried as deposed to by Sivia. The witness states that the 1st accused afterwards came to him and coached him up as to what he should say. He made a confession accordingly and pointed out the gun. He gave a circumstantial account of how and by whom the murder was committed. He now brands himself a liar and swears that the statement was the result of the 1st accused's tuition. He comes forward now with a wholly different story. The several suspicious circumstances elicited in his statement cannot be easily got over. He is more a culprit than a witness. That such tainted testimony should seriously be relied upon in a case of murder does not seem very creditable to the acumen of those who had the working up of the case, before its submission to the Magistrate. This man was sued by the 4th accused. He is Nagappa's witness in the 4th accused's suit against him and Nagappa was his witness in the confession case. He is the father-in-law of the young man who has obtained a suspicious conveyance from Sivia. He seems now to be under the influence of his creditor Manjappa and hopes to

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get back the land which was sold in execution of the decree obtained against him by that person. Bisheswar in whose possession the Deputy Amildar found a suspicious letter purporting to have been written by this witness, was formerly a servant under the latter. Mahomed Shakhan and Syed Hyder are his friends. All things considered, the conclusion is irresistible that this witness is a dangerous character who had more to do with the death of Krishna Row than he would have the Court believe and who now recklessly swears away the lives of other people with a wicked motive. I have no hesitation in saying that his evidence even if legally admissible is entirely devoid of truth and must be rejected as worthless.

(To be continued.)

THE NEMMAR MURDER CASE.
IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION.

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.
Government of Mysore,

1. Police Ramanna.
2. Sasimanē Narasaiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarāinbhatta alias Gundappa.

JUDGMENT.

(Continued from our yesterday's issue).

57. The 15th witness Kavdi Vencatabhatta is certainly not a better type of witness than the persons whose evidence has already been animatedly verted upon. He was twice convicted of the offence of extortion. He deposes to certain incidents, the first of which is the harbouring of the suspected person Belandur Ramu in the house of the 5th accused. He states that the Duffedar and a constable took him to the 5th accused and got him to ask the latter if Ramu was not in his house. The 5th accused said that he would hand over Ramu to the police if they undertook to say nothing about the place where he was found. The Duffedar agreed and Ramu was given up. I do not believe a word of this. The Duffedar does not come forward and support the story. That the fifth accused bargained with the Police in this way is highly improbable. The witness deposes next to an admission made by the 5th accused at Agalgundi. He does not admit Vagale Vencatachellia's presence, while the only person who according to him was then present completely contradicts him. The 5th accused told the witness that "Sivia; Vagale Vencatachellia and such people" did the deed and that he was himself in no way concerned in it. This statement and the complaint of ill-treatment made by the 5th accused cannot possibly be said to amount to an admission of guilt. The witness says that the 5th accused offered to induce B. Ramu to confess if he were tendered a pardon. He alleges that nothing else was said by the fifth accused. On being further pressed he states that the 5th accused admitted that as desired in his father's letter, he had given the first accused weapons and money. Before this Court he does not introduce the names of the 2nd

and 3rd accused with the 5th accused's statement. But he did so in his evidence before the Magistrate, while before the Police he left out the 2nd accused and named only the 3rd. He first deposed before the Head Quarters Inspector that the admission was made in the presence of the Police Duffedar. On the next day he corrected himself and denied the presence of the Duffedar on that occasion. This was undoubtedly an afterthought. Lastly the witness swears that he went to Kutugode 5 or 6 days afterwards in order to pay the 5th accused and his brother the 140 Rs. which he owed them. He then saw the 1st accused and Hampapur Ramanna there, the 4th accused's clerks were engaged in re-writing the accounts of their master. The 1st accused complained that 5th accused had falsely denied his presence in the Kutugode House on the night of the murder. It was settled that a chit should be sent to the 4th accused whose advice in the matter should be followed. In the meantime since the 1st accused was certain that the 4th accused would agree with him, it was stated that documentary evidence as to the 1st accused's presence at Kutugode on the night of 5th June should be concocted. That evidence was an endorsement on the bond which the witness had executed. One Bellabhatta attested the endorsement and then looked at the date and objected to it on the ground that the payment had been ante-dated. The witness thereupon suspected something wrong and asked the writer to read out the date. He then found that the endorsement had been ante-dated by 38 or 40 days. The 5th accused told him that he should if necessary depose to the presence of the 1st accused at Kutugode on the 5th of June. The witness refused to do so. He got angry, expressed himself in very strong language and said that he would not take the bond back. The 5th accused pacified him by saying that he need not give any evidence. The witness thereupon took the bond, Rs. 200 and two hundies were about that time given to the 1st accused. It was arranged that the Kutugode servants should go to Chickmagalur and lodge complaints against the police. Vagale Vencatachellia was the only man who did not agree. Such

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in a few words is: the story told by this witness. Vagale Vencatchellia does not support it. The only attesting witness was not examined. The statement that the endorsement was ante-dated without first securing the consent of the witness is absurd. The 1st and 5th accused must have known that if the witness was not previously consulted and his sympathy enlisted he would naturally not give any evidence favourable to the 1st accused. Again the endorsement was not attested by the 1st accused. How then could it be adduced as proof of his *alibi*. Moreover, Kutugode is only a few miles from Nemmar and the 1st accused could be in both places on the same day. As evidence of an *alibi* the endorsement was thus almost worthless and the 1st accused could not have been ignorant of it. The witness professes to have been in a rage when he discovered that the endorsement had been ante-dated. He nevertheless took back the document without insisting upon the date being altered. In this Court he states that the 5th accused's brother was present when all this took place, but he made quite a different statement before the Amildar. His statement as to when the hundees were written is contradictory and unsatisfactory. The hundees and money were given in July and I do not at all believe that the witness was then present.

58. This witness was questioned at the earlier stages of the Police enquiry. He then stated that he knew nothing. In the Shimoga Jail, he once told the Assistant Superintendent of Police that there was a Brahmin at Sringeri who was in possession of certain papers showing that the 4th accused had got the murder committed. This was evidently disbelieved and no action was taken upon it. Long afterwards, he made before the Head Quarters Inspector a statement similar to the one he now makes. This was clearly due to the *zid* which arose between him and the 4th accused. The 4th accused obtained two *exparte* decrees against the witness when he was in Jail. The witness says that the claim was wholly false. He admits that Nagappa came to him and saw him once or twice. This is significant. And now, as to the papers produced by the witness, I find that their probative value is almost *nil*. Three of them are admitted, viz., A3, A5 and A7. The first of these relates to a dispute between one Krishnabhatta and Subba Chetti. It refers to "that party," and "this party," meaning thereby the parties to that dispute and not the two antagonistic factions to which the 4th accused and Krishna Row are alleged to have respectively belonged. Even the meaning attached to the letter by the prosecution does not go further than showing that the deceased and the 4th accused were on bad terms with each other. A5 simply asks the witness to come sharp. It is conceded that that had nothing whatever to do with the murder of Krishna Row. A7 simply shows that there were money dealings and friendship between the 4th accused and the witness. The 4th accused says he is not sure that another letter A8, is not also genuine. There is nothing in that letter damaging to him. There remain two other letters, viz., A4 and A6. Both of them are in Nagri while those admitted are in Canarese. The 4th accused denies their genuineness. The evidence on record does not prove beyond all reasonable doubt that they are in the 4th accused's handwriting. One of them relates to a dacoity case against Krishna Row and the other to the charge preferred against the 2nd and 4th accused by Krishna Row's cook. In the former the witness was told that he would be paid Rs. 100 if Krishna Row were discharged, Rs. 200 if he were charged and Rs. 400 if he were convicted. The other asked the witness to tamper with Vagale Vencatchellia's brother who was a witness for the prosecution. I do not believe that these letters were really written by the 4th accused. Assuming that they were, what do they prove? They merely show that the witness was as unscrupulous as the 4th accused and that there was bitter enmity between them and Krishna Row. I wish to say a word as to how these papers were produced by the witness. He took the Assistant Superintendent of Police to the village of Kavadi. The box containing his papers was in some other place and was sent for. It came on the same evening and not on the next morning as alleged by the witness (see the evidence of Mr. Dunning). It was opened and searched on the following morning. Till then it remained in the house of the witness and out of sight of the Police Assistant. The witness slept inside. There were a Duffedar and 1 or 2 constables inside and nobody else. The lock was an ordinary one. Under these circumstances, a strong suspicion naturally arises that the box was tampered with during the night. However that may be, I have said enough to show that the witness is not trustworthy and that the letters produced by him are not worth much.

59. There are a few somewhat unimportant witnesses whose evidence requires but a passing notice. Of these the 9th witness states that Hampapur Ramanna brought him a handi from Krishna Bhatta and received from him Rs 800 for it on the 27th July 1891.

This is not denied by the accused. The 14th witness paid Hampapur Ramanna Rs 100 on account of a bundi, likewise issued by Krishna Bhatta. Why these hundis were issued and what became of the moneys drawn thereon, are points which will be considered when dealing with the evidence of Hampapur Ramanna. The 17th witness simply states that the 4th accused was admitted into the Chickmagalur Lock-up on 24th October 1889, and was sent off to the Shimoga Jail on the 26th idem, and that on account of the sanction case he was brought back and kept in the Chickmagalur Lock-up from 17th February 1890 to 22nd March 1890. The 18th witness ~~Sirappa~~ is a merchant at Shimoga. He paid Iyagala Vencataramaia Rs. 10 on 4th August 1891 as desired by the 4th accused's eldest son Krishnabhatta. The latter admits that payment. There is nothing to connect it with this case. It simply shews that Iyagala was at Shimoga in August 1891. The 29th witness is Dharnia Chetty, who is a rich money-lender residing at Sringeri. It was against this person that Vagale Vencatachelia and H. Nagappa endeavoured to turn the case in September 1891. He says he was no way concerned in the murder and that the gun marked C unearthed and given up by Vagale Vencatachelia does not belong to him. He is not altogether an independent witness. He holds a lien on the approver's property. His statement does not moreover shew that the accused 1 to 5 were in any way implicated in the murder. The 34th witness Sadasivaya is an official of the Hariharpur Mutt. He identifies the 4th accused's handwriting in the disputed letters marked A3, A4, A5, A6, A7, A8, A44, A46, A48, A49, A64, A65, A66, A77, and A80. For the purpose of comparison he produces letter A75 purporting to have been written to the Mutt by the 4th accused. The letter thus produced is also denied by the 4th accused. The latter has long been closely connected with the management of the Mutt. It is worthy of note that the Mutt records do not seem to contain more than one solitary letter in the Nagri handwriting of the 4th accused. The witness though related to the 4th accused does not seem to be on the best of terms with him. The 4th accused had once sued him. He now looks after the affairs of the Mutt between which and the 4th accused there is a dispute. He had admittedly very few opportunities of becoming acquainted with the handwriting of the 4th accused, so as to be able to depose to it with certainty. He has hypothecated his lands to one Hejse Setaram Sastri who is an enemy of the 4th accused and who is one of the several influential wire-pullers in this case. Lastly he went to Bangalore with that Sastri so recently as Vaishaka last. It will thus be seen that his evidence is not quite disinterested and credible. The 43rd witness is Khandhari Mahomed Shakhani to whose testimony reference has already been made. Besides deposing to the negotiations between himself and Vagale Vencatachelia regarding the harm to be done to Krishna Row, this witness states, that Sivya, Vagale

Vencatachelia and Syed Hyder used to go about together committing thefts, that he declined to mention the 4th accused's name which was nevertheless taken down by the Head Quarters Inspector and that he once produced Syed Hyder before the Police Assistant who gave him a written promise of pardon. It is doubtless true that this man is not a safe and trustworthy witness. I am not sure that a strong suspicion does not rest against him in connection with Krishna Row's murder. But for the purposes of this case it is sufficient to observe that his evidence in no way prejudicially affects the accused 1 to 5. The 45th witness is Mr Sundrum Iyer, who deposes to a fact not denied by the 2nd accused, namely, that the deceased was the person that chiefly interested himself in the appeal preferred by Mr. Collins.

(To be continued).

1-4-93 ✓ 32.

THE NEMMAR MURDER CASE.

IN THE COURT OF THE ADDITIONAL
SESSIONS JUDGE, NAGAR
DIVISION,

CHICKAMAGALORE, THE 13TH MARCH 1893.

Kadur Sessions Case No. 1 of 1893.
Government of Mysore.

1. Police Ramanna.
2. Sasimane Narasaiya.
3. Lingoji.
4. Singabhatta.
5. Lakshminarainbhatta alias Gundappa.

JUDGMENT.

(Concluded from our Thursday's issue).

60. Much of the remaining evidence relates to the movements of the 1st accused and to the interests taken by him in thwarting the Police and starting the enquiry upon a wrong scent. The 2nd witness states that the 1st accused passed by Sullebail on the 2nd or 3rd of June 1891 on his way to Sringeri and that he returned on the 7th or 8th idem and left for Balehonor when he was on his way to Sullebail on 2nd June as also when he came back on the 7th or 8th idem. The 5th witness saw him at Agalgundi on the 7th and states that he went away towards Sullebail. The statements of these three witnesses are not denied by the 1st accused who alleges that he did go to Kutugode on the 2nd or 3rd of June and returned from there after a stay of 3 or 4 days, his object in paying that visit being to collect funds for his marriage. From Balehonor the 1st accused proceeded to the estate of the 27th witness Rangee Hebbar at Makarsangudda where he stayed for a few days. It would appear that he was then slightly indisposed. The 27th witness states that it was from the 1st accused that he first heard of the murder. There is nothing suspicious in this. The 1st accused heard of it at Kutugode and he informed the witness of it when he met him. The witness goes on to say that one of his gumastas told him that the 1st accused wanted

currency notes in exchange for cash. He does not mention the amount. The 1st accused denies this and asserts that he had only a few rupees with him at the time. The only witness who deposes to the 1st accused being found in possession of money and asking for currency notes is the 31st witness Gunde Row, whose evidence as I shall show further on, is not deserving of credit. Granting that the 1st accused had some money with him and that he wished to exchange it for currency notes, I think that this fact does not necessarily justify any suspicion against him in this case. The 1st accused was on leave. He had long been employed both on general and on special duty in the Koppa Taluk and knew most of the wealthy people of that Taluk. He asked Pleader Mallhari Row to find a bride for him. The Amildar's diary of 17th June 1891 shows that the 1st accused was seen going about and asking people to help him with funds for his marriage. Under these circumstances, it is quite possible that he had succeeded in raising some money before he visited the estate of the 27th witness in June 1891. I fail to see how, in the entire absence of evidence except the hearsay statement of the tainted witness Sivia, I could connect the money which the 1st accused then possessed with the reward which he is alleged to have obtained from the 5th accused for the part played by him in the murder of Krishna Row. During the 1st accused's stay on the estate, a fresh arrival named Hirryanuappa observed that a police cartridge was reported to have been discovered near the scene of the murder and that consequently there was a suspicion that a policeman must have had a hand in the crime. The 1st accused who heard this is said to have abruptly left the estate on the following morning without taking leave of any body. I do not believe that there is any truth in this. If the case for the prosecution is true, it is plain that the 1st accused must have known as soon as he got back to the 2nd accused's house on the night of the murder that he had dropped an unexploded police cartridge when he half fell down in Krishna Row's kotagi and that it would surely be discovered and picked up early the next morning. He did not leave Kutugode until the 7th or 8th and he must have heard that the cartridge had been picked up on the morning of the 6th. The news brought to the estate by Hirryanuappa more than a week afterwards was therefore not a surprise to him. Why then should he be so distressed by it as to necessitate his leaving the estate abruptly without telling

The 6th witness saw him at Agalgundi - honnour

anybody? He is a shrewd man who would not have failed to see that such conduct on his part must surely lead to a suspicion being aroused against him. It would appear that he left *amaguta* behind him when he went away from the estate. This was evidently due to an oversight. Some 20 days after this, Rangee Hebbar received a letter purporting to have been written to him by the 1st accused. He produced this letter before the Assistant-Supt. of Police on or about the 15th of July 1891. Exhibit A24 is that letter. It is dated 30th June 1891 and was posted at Chickmagalur. It is wholly in the handwriting of constable Mailaraya the 35th witness, who states that he wrote it at the 1st accused's dictation and gave it to him to be posted. The first accused denies this *in toto*. The letter does not even contain his signature. The contents of the letter are somewhat suspicious. It purports to acknowledge a letter which Rangee Hebbar never wrote to Mallari Row. It asks Rangee Hebbar to excuse the 1st accused's leaving the estate without permission. Lastly, it vaguely refers to conversation which the 1st accused had with Gunde Row the 31st witness at Chickmagalur. The object of putting in this letter is chiefly to corroborate Gunde Row's statement regarding a mysterious talk between himself and the 1st accused near a shop at Chickmagalur. The record shows that a suspicion had already arisen against the 1st accused whose movements and conduct were therefore being closely watched. The Police record seems to show that Mailaraya the writer of the letter was the person who had been deputed to watch the 1st accused's movements. That such a man should have been had recourse to by the 1st accused for writing this suspicious letter which he could have himself written with facility, is a circumstance wholly incredible and beyond my comprehension. I am led to suspect that this letter was an attempt on the part of Mailaraya and Gunde Row to manufacture evidence against the 1st accused and I consequently decline to attach any importance to it. Rangee Hebbar returned to his estate after seeing the Police Assistant. The 1st accused thereupon went to him and asked to be permitted to take away his *maguta*. This however he was not allowed to do on that occasion; one of the estate clerks viz Hampapur Ramanna struck work and went away with the 1st accused saying he expected to get better pay by taking up service in the Kutugode house or under a contractor at Koppa. I am not prepared to say that this statement of Rangee Hebbar is not true, though it must be conceded that there was not much love lost between him and the 1st accused. Gunde Row states that in March or April 1891, he met the 1st accused at Shimoga and that the latter told him that he had seen the 4th accused in the Jail and was waiting for a chit to the address of the 4th accused's son asking that some money be given him for his marriage. No other witness speaks to this and I hesitate to believe Gunde Row who as I shall show presently is an unreliable witness. He states that during his stay on the estate in June 1891 the 1st accused took out a bundle of rupees from his railway bag and placed it on the ground. He estimates the contents at 500 or 600 rupees. The 1st accused was often seen carrying the bundle in his armpit during his stay on the estate. All this is in the highest degree improbable. The 1st accused would not have fearlessly exposed the money and openly carried it with him if he had obtained it from the 5th accused as remuneration for murder committed by him but a few days previously. Moreover Sivia's statement if true shows that the 5th accused then paid the 1st accused only 200 Rs. whereas the bundle in the 1st accused's possession was estimated to contain nearly three times that amount. It seems to me that, as already observed, the money if any in the 1st accused's possession was money which he had acquired in a lawful manner in order to enable him to get married. Of course, for fear of being misconstrued and suspected, he now denies that he had any large sum of money with him on the date of his visit to the estate. Gunde Row deposes to the talk about the discovery of a cartridge but I have shewn above that, that story is incredible. He says he saw the 1st accused at Chickmagalur a few days after and that the latter then begged his pardon for leaving the estate abruptly and requested him not to tell anybody about it. This is as unlikely as it is uncorroborated. This evidence and the letter which supports it, seem to me to be wholly false. In July 1891 when the 1st accused again visited the estate, he is said to have asked Gunde Row to help out him of his difficulty by testifying to his plea of *alibi*. Gunde Row says he refused to do so. The first accused and this witness were not intimate friends. They had never before told each other's secrets or helped each other. The 1st accused attempt to concoct evidence was a very serious matter and yet Gunde Row did not

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inform his master of it. He says he met the Mudigeri Inspector a few days afterwards and reported the conversation to him. He explains this conduct by saying that he was afraid that the 1st accused might cite him as a defence witness. The absurdity of this becomes patent when it is borne in mind that the witness had peremptorily refused to testify to the 1st accused's *alibi* and was therefore the last person to be cited by the 1st accused. On the whole, I am inclined to think that very little reliance can safely be placed upon the testimony of this individual.

61. Hampapur Ramanna has played a very prominent part in the complaints of torture preferred against the Police by the servants of the Kutugode house. He says he accompanied the 1st accused to that house where he was taken into service by Krishna Bhatta. I think that this is not altogether false. He was almost a stranger to the Kutugode family while the 1st accused was well known to it. The witness would not have been engaged as a confidential clerk and entrusted with important business and large sums of money without some strong recommendation, such as that of the 1st accused. I am not disposed to believe Krishna Bhatta's statement to the contrary. I think the 1st accused was really present when a consultation was held in the matter of getting the servants of the 4th accused to lodge complaints against the Police Assistant. But as already shewn by me, the endorsement under Vencatabhatta's document could not have been written on that occasion and for the purpose mentioned by Vencatabhatta and Hampapur Ramanna. Two Hundis and a sum of Rs 200 were given to Hampapur Ramanna through the 1st accused. The former left for Chickmagaloor taking the servants of the 4th accused with him. The 1st accused joined the party at Chickmagaloor 2 or 3 days subsequently. These two persons seem to have cashed the Hundis. A sum of Rs 600 was thus obtained by them including the 200 Rs which had been paid to them in cash by Krishna Bhatta. A small sum was spent on account of the complaints. Hampapur Ramanna purchased land for which he paid Rs 165 out of Krishnabhatta's money. He gave a one hundred rupee note to the 1st accused out of the same. The latter cashed it at Subanna's shop. Another sum of Rs. 75 was placed to his credit by H. Ramanna and he has since drawn a portion of it. The 1st accused took from H. Ramanna a prom note for Rs 100. This probably was connected with that portion of Krishnabhatta's money which H. Ramanna had appropriated to his own use. The 1st accused's statement that the said two sums of Rs 75 and 100 were part of the debt due to him by H. Ramanna upon a plain paper bond which he is not now in a position to produce seems to me to be entirely false. It will thus be seen that these two persons helped themselves to the bulk of the money which had been entrusted to them by the 5th accused's brother. Both are unscrupulous characters. They seem to have played upon the fears of the 5th accused and his brother who were suspected by the Police and whose servants were sent for and detained by the Police. The 1st accused too was interested in clearing himself and thwarting the Police. He found a convenient tool in his friend H. Ramanna. I am clearly of opinion that both in order to avert suspicion from himself and to enrich himself at the expense of the Kutugode people the 1st accused took a considerable interest in the complaints of ill treatment preferred against the Police. After the rejection of those complaints, the 1st accused and H. Ramanna went back to Kutugode where there was a settlement of accounts. A promote was taken from H. Ramanna for Rs. 165 and his services were dispensed with. He is angry with the 1st and 5th accused who did not sufficiently recognize and reward his services. He has therefore now turned round and made statements against the 1st and 5th accused, some of which are true and others false. A copy of order (B2) passed on B. Ramu's complaint was found in the 1st accused's possession. This shows that he did take an interest in that complaint. I do not believe Pleader Mallari Row's account of the circumstances under which that paper was given to the 1st accused. And now, does the 1st accused's conduct as disclosed by the proceedings subsequent to the murder necessarily shew that he was himself a party to that crime? I think not. It is quite consistent with the hypothesis that he was innocent and that he simply took advantage of the suspicion entertained against the Kutugode family and made some money for himself by proffering his services to the servants of that family. It is true that there are some suspicious entries and erasures in the Kutugode accounts. These do not however warrant the court in holding that the serious charge of murder has been substantiated against the 4th accused and 5th accused. There was a suspicion against them and they were anxious to avert it and to clear themselves. The 5th

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accused and his brother spent some money for that purpose. For fear of such conduct being construed as evidence of their guilt, they seem afterwards to have tampered with the accounts to some extent.

62. The 40th and 41st witnesses simply depose to the encashment of one of the hundies and to certain payments made to the 1st accused and H Ramanna.

63. Among the papers found in the 1st accused's railway bag when it was searched was exhibit A73 which is a letter addressed to one Amble Krishnaya by the 4th accused on 26th July 1892. The 1st accused explains that it was delivered by the postman when the addressee was taking his bath and that at the latter's request he opened it and after reading it to him put it into his railway bag where it remained until the date on which it was seized by the Assistant Superintendent of Police. To my mind, this explanation does not seem to be satisfactory. But I do not think that this letter helps the prosecution much. If any thing, it shews merely that the 1st accused is a friend of Amble Krishnaya, the 4th accused's servant and was with him at Shimoga in the month of July last. The other papers found in the 1st accused's possession are A90, A91, A98, A99 and A100. These relate to the pardon promised to Vagale Vencatachellia and to the production of witnesses by the 1st accused. They simply prove that he interested himself in this case at that stage of the Police enquiry.

64. On 24th January 1891, the 1st accused applied for a transfer to some other station (vide B16). I do not think there is much force in the argument that in consequence of his promise to the 4th accused the 1st accused wished to remain in the same taluk and therefore applied to be transferred to some other station instead of to some other taluk. The order transferring him to Kadur was communicated to him on 6th Feb. 1891 but instead of going there he applied for six months' leave on the 11th idem (vide B17). A month's leave was granted. On 12th March 1891, he came to the head quarters and applied for the cancellation of his transfer to Kadur. He was thereupon transferred to the Chickamagaloor Taluk (B18). The Amildar of the last mentioned Taluk would not take him, and he therefore again applied for six months' leave (vide B19). Leave was granted to him but he did not avail himself of it. He worked in the Head Quarters Office till 11th April 1891 when he was given a passport in order to enable him to go to Kadur. He did not go there but asked for two months leave which was granted to him. He applied for an extension of three months which was refused. But what does all this shew? It simply shews that he did not wish to go to Kadur while the Amildar of the Head Quarters Taluk would not take him. It also shews that he was on leave on the date of the murder. It was no doubt possible for him to have committed the murder, but the question for consideration is not a question of possibility but whether he actually committed the crime.

65. Certain diaries and duty registers have been put in for the purpose of shewing that it was possible for the 1st accused to have held interviews with the 4th and 5th accused and other interested persons on the dates on which such interviews are alleged to have occurred. Here again I must observe that such possibility is not tantamount either to probability or to legal proof.

66. I think I have exhausted the whole of the large mass of evidence adduced in this case. If I have omitted any small portion, it is evidence of an unimportant and informal character. I have noticed only material improbabilities and contradictions in the evidence of the witnesses and have considered it unnecessary to set out the very numerous other variations in the statements made by them at the several stages of the progress of this case.

67. I wish to note here that if the 1st and 4th accused had planned the murder in the presence of Nagappa in February and March 1890 it is not at all likely that the 4th accused would have shortly afterwards written letters A70 and A71 to his sons asking them to settle accounts with Nagappa and send him away. In May and June 1890, the 4th accused wrote to his sons asking them to sue Sivia and many other debtors if they failed to repay the debts due by them. This he would not have done if Sivia was expected to render help in the plot, which had for its object the murder of Krishna Row. I may also observe that after his discharge from Jail, the 4th accused filed suits and execution applications against nearly a hundred persons including Sheshabhatta (one of the prime movers in this case) and nearly all the important witnesses in this case. These people being thus goaded to desperation have now assumed an attitude decidedly hostile to the 4th accused. But for this fact, I do not think that the accused persons would have been placed before the court for trial on a charge of murder.

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68. So far back as in September 1891 Colonel Campbell suspected that the foot-notes under the mahazar had been ante-dated. On 3rd March 1892, the Head Quarters Inspector observed that Sivia had fallen out and that Seshabhatta and another having been sued by the 4th accused were doing their utmost to turn the case against him. On the 4th idem Seshabhatta ~~was~~ only referred to several cases of murder &c., in which he had assisted the 4th accused and said that the latter had failed to give him credit for large sums spent on account of those cases and that therefore he would change sides and implicate the accused 1 to 4 in the murder of Krishna Row. On the 6th he hinted that he could bring any number of hired witnesses to prove the case. Very properly the Head Quarters Inspector considered him to be a dangerous person who could not be relied upon. It is this man and his friends including Nagappa who is living with him that are now actively interesting themselves in the case against the accused 1 to 5.

Seshabhatta would appear to have gone so far as to tell the Police on the 8th of August last that he had himself given the gun to the Kutugode people.

69. In conclusion, I must say that the case is by no means free from doubt and difficulty. I have not lost sight of the fact that the 4th accused is a man of great influence and that naturally no evidence could reasonably be expected from persons who continue to be his friends and under obligations to him. At the same time when evidence comes from his enemies it ought not to be accepted without careful examination. I have considered the case in all its bearings and as carefully as I could. The Public Prosecutor and the accused's counsel have spared no pains to make this long and intricate case as simple as possible. The Assessors have given the case their best attention. They are of opinion that the prisoners must have the benefit of the doubt, and I concur with them. Certainly there is a strong suspicion against the prisoners, but reliable and conclusive proof of their guilt is utterly absent. The only evidence forthcoming is of a tainted and most unsatisfactory character and cannot be safely depended upon. I accordingly resolve to acquit all the prisoners of the offences charged.

(Signed) C. SRINIVASA IYENGAR,
Additional Sessions Judge.

Finding.

The Court concurring with both the Assessors finds the 1st prisoner Police Ramanna and the 3rd Prisoner Lingoji not guilty of the offence charged, namely, murder punishable under Sec. 302 of the Indian Penal Code and the Court directs that the said prisoners be acquitted and enlarged.

The Court, concurring with both the assessors finds the 2nd Prisoner Narasiya, 4th Prisoner Singabhatta and the 5th Prisoner Lakshminarayana Bhatta, alias Gundappa not guilty of the offence charged viz., abetment of murder punishable under sections 302-309 of the Indian Penal Code and the Court directs that the said prisoners be acquitted and set at liberty.

(Signed) C. SRINIVASA IYENGAR,
Additional Sessions Judge,
Nagar Division.

The 13th March 1893.

Memorandum
Number
Case

1007/8

Place this in the
file
The newspapers for
the time being were
there may be destroyed
1007/8

Cr A no 37 of 1893-94 (Nemmar Murder Case)

EXHIBIT Z III.

FORM B.

Kadur District

Koppa Taluk

Sunkadamakki Station.

Report of a Case **REFERRED** for the orders of the **DISTRICT** Magistrate of **KADUR** under Section 169 C. P. C.

Register No. of case.	Outline of complaint, how and when first known at station.	Action taken by Police Officer on the complaint or in regard to accused, and ground of referring the case for the orders of the Magistrate with date.	Date of receipt of this report by Inspector. Action taken by him on this report and date of transmitting it to the Magistrate.
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4
— of 1891.
62
Koppa
Taluk.

The Potel Subbanna Heggade's report received at the Sunkadamakki Station by Constable Ramanna of that Station at 11 P. M. on the 5th June 1891, stated, that at about 7 o'clock that evening some one, unknown, had shot Nemmar Krishna Row dead while he was seated on his pial reading with a boy Krishnamachar with a lamp burning near him. The case was reported under Section 302 Indian Penal Code to the General Assistant Commissioner and 1st Class Magistrate's Court.

On receipt of the report of Murder by Police Express the Amildar went to the spot with the Hospital Assistant of Hariharpur on the 6th evening and examined the body of the deceased Nemmar Krishna Row and drew up a Mahazur (copy attached marked A). A postscript dated 6th June below the Mahazur shows that a whole Police bullet cartridge, broken at the end, and a discharged flattened bullet were discovered near the spot where deceased lay dead. A Post Mortem Examination was also held on the morning of the 7th when a piece of wood, which is always attached to the base of the Police bullet was found in the wound; this connected the murder with the finding of the discharged bullet and of the Police cartridge, thereby shewing that the bullet that killed N. Krishna Row was a Police cartridge bullet. The Hospital Assistant also declared that death was due to a homicidal gun-shot.*

Submitted to the District Magistrate
for orders.

Dated 28th September 1891.

GEORGE DUNNING.

* The Amildar continued his investigation upto the 11th June and examined Krishnamachari and several other persons to ascertain the circumstances connected with the murder. Krishnamachar stated that while he and Krishna Row were seated reading on the pial he saw a black figure moving about near a pillar on the adjoining verandah but before he could draw attention to it the gun was discharged and Krishna Row fell dead. Access to this adjoining verandah is obtained from a side-door.

The Amildar's investigation also threw suspicion on the movements of Ramanna who was in the neighbourhood at the time.

I took up the investigation on the 20th June and continued in that part of the country till the 23rd July, moving about Sringeri, Nemmar, &c., and making inquiries. Of the witnesses then examined by me Venkatagiri, Singanna and Maler Subba gave statements before me to the effect that Ramanna came to Kootugode on the 3rd June (Wednesday), that on the same day a double-barrelled gun was sent for, which Ramanna fired off twice that evening; that Ramanna placed this gun near his bed when he went to sleep; that next morning Ramanna had disappeared along with the gun; that Ramanna returned to Kootugode at midnight on Friday (the night of the murder) along with two others; that Ramanna asked Venkatagiri to awake Lakshminarain Bhatt (Singa Bhatt's younger son,) but he was fast asleep, and accordingly Ramanna's companions, who could not be distinguished in the dark went away; and, finally that Ramanna himself left Kootugode on the 7th June. These statements confirmed the suspicion against Ramanna, and further enquiry was being made by me to procure more convincing evidence, but in the meantime Ramanna prevailed upon these witnesses to prefer charges of torture &c., against the police to the District Magistrate and the investigation had to be suspended. These complaints were dismissed by the District Magistrate as unfounded. While these complaints were pending Ramanna had been urging upon the police to hold further enquiry on the lines indicated by him in order to detect the real culprits. It was thought advisable to give his suggestion a fair trial and I proceeded to Sringeri again on the 10th instant. Constable Ramanna met me on the way at Bale Honnur and went on in advance to Kootugode on the pretext of collecting his witnesses by the time I arrived at Sringeri. I reached that place on the 13th September and held enquiries at the Nemmar Devasthanam on the 16th and at Sringeri on the 17th, 20th and 21st September. One of the points to which Ramanna drew my attention was the discovery of the police cartridge and the discharged bullet; which he wanted to make out was not true; the 2nd point was the holding of the Post Mortem examination upon which he also tried to throw doubt. I examined the following witnesses in connection with these two points: 1. Gouse Meah (of Sringeri), 2. Constable Lingoji of the Sringeri Station, 3. Devara-puji Venkatachala Bhatt, 4. Nemmar Ranga Row, 5. Dasara Bhatta Narsimah Bhatta, 6. Constable Ramanna of the Sunkadamakki Station, 7. Ketcholi Bhatta, 8. Abbas Sett of Sringeri, 9. Nemmar Phaniappa (brother of the deceased). Their statements do not falsify the finding of the cartridge and discharged bullet on the holding of the Post Mortem examination but to clear up whether the Postscripts written by the Amildar to the Mahazur

were written on the same date or not in which these things were found, further enquiry of the Hospital Assistant and the Amildar is needed. As regards the evidence now brought forward by Ramanna, it consists of the "confessional" statement of W. Venkatachalia, and the consequent un-earthing of a gun with which it is sought to prove the offence was committed. Five witnesses have also been produced to corroborate certain unimportant points in Vagale Venkatachalia's "confession". The summary of the evidence adduced by Ramanna in the Nemmar Murder case is annexed. These witnesses have been suborned and are either obligated to Kootugode Singa Bhatt or have a private grudge against Dharania Setti to whom they attempt to transfer the guilt. It is to be noted that Venkatachalia would not make his "confessional" statement until he had shielded himself with a promise of pardon, and yet he was one of the complainants against the police for torture &c.

Both this man and these witnesses had ample opportunities of communicating to the police their knowledge of the facts which they now pretend to disclose. A strong inducement, in the shape of the offered reward of so large a sum as Rs. 700, was also held out to them. The case against Dharania Setti as it now stands is skilfully got up; each witness has been brought forward to prove his special "point", and he stands uncorroborated. Thus there is no chance of testing their veracity by the ordinary rules of evidence. But as Venkatachalia had come forward with an open confession of his guilt I thought it better to arrest him and record the corroborative statements of the witnesses to be able to fully judge on the merits of the case. I accordingly arrested him on the evening of the 21st instant and obtained a 10 days' remand from the Koppa Taluk Magistrate from the 22nd September. The evidence brought forward by Ramanna being clearly concocted to divert suspicion from himself and the Kootugode people I released Venkatachalia on his personal recognizance on the evening of Saturday the 26th instant, after recording the statements of these witnesses. The introduction of Kandhari Mohamed Sha Khan is no doubt due to the fact that an attempt was made at Yedehalli about the middle of July to divert suspicion from the proper quarter, and Mohamed Sha Khan made a statement to me on the 25th July implicating Venkatachalia and bringing to light a letter alleged to have been written to the Khandari by Venkatachalia. This letter is attached as Exhibit "E". This letter contains no signature whatever, while Venkatachalia who admits the writing of the letter says he initialled it *ಎಲ ಎಲ ಎಲ*, confounding this letter, no

* Exhibit "F." The Ya-dast connected with this, written by him, which was concocted on the same occasion at Yedehalli and which bears those initials.

The Order of Remand and the Bail Bond are attached. The gun is in Police Custody and orders are solicited as to its disposal.

I accordingly submit this "B" Sheet in the case as against Vagale Venkatachalia, for there is not the slightest ground to place him before a Magistrate.

CHIKMAGLUR,

GEORGE DUNNING,

Dated 2nd September 1891:

Offg. Police Assistant Commissioner.

Vagale Venkatachalia made a statement to the Police Assistant after he was promised that a pardon would be obtained for him. The statement thus obtained was almost worthless, and it was an error of Judgment to have arrested Vencatachalia. He was afterwards released on bail, and will now be discharged from his bail bond.

NOTE:—Venkatachalia present in person.

Dated 28th September 1891.

J. A. CAMPBELL,

District Magistrate of Kadur.

Translation of the Canarese Mahazur.

SERVICE.

On the 6th of June 1891, we, the undersigned panchayets wrote the following Mahazur in the front verandah of Krishnaraya's house at Nemmar, Koppa Taluk.

The Potel of Nemmar reported to the Sunkadamuki station that Krishnaraya of Nemmar was shot by somebody at 7 or 7. 30 p. m. on 5th June 1891. This was duly reported to the Kigga Station, and on the request of the Amildar of Koppa Taluk we wrote the Mahazur. The Mahazur commenced at 4 p. m. and completed at 6 p. m.

We examined the body of Krishnaraya which lay by the side of a room situated in the south part of the front verandah of Krishnaraya's house. The deceased lies on his back with his head to the west, and legs to the east. His head is supported by the wall in the corner situated to the left side of the front door of the above said room. The eyes and mouth are closed, mouth twisted a little to the right side. In each ear there is a ring with a pearl in it. There is a wound on the left cheek extending up to the shoulder of the same side, and a scratch below the left eye; a janivaram in the neck. The panchey, the mat and the floor below the deceased are soaked in blood, from the wound. There is a stain of blood on the chest and right shoulder. The blood on the floor is dried. The wound measures two inches wide five inches long and one inch deep. Abdomen is swollen, hands extended; fingers bent a little in the palms. A white panchey is tied round the waist. Legs are extended. Penis and arms are healthy. In the waist there is one paper box containing snuff and a tin box containing chunam. No other wounds on the body excepting the one above described. This is the body of Krishnaraya son of Subbaraya. His age is about 37 years. He bears thick mustaches. His body is well developed and fat.

A boy named Krishnamachari was teaching the deceased Subdamanjary at the time when he was shot. He says: "when I was teaching the deceased I heard a loud noise by *the force of which the lamp was put out*, when I started and sat aloof. By the time the lamp was brought by one Puttannayya, Krishnaraya was dead".

The wound above described seems to have been caused by a bullet.

(Signed). 1. Potel Subbanna.

" 2. Potel Singanna.

" 3. Gousoomian Saheb.

" 4. Nemmar Phaniappa.

" 5. Visvasvarayya.

" 6. Nemmar Ranga Row.

" 7. Mangalore Abba Sait.

" 8. B. Nanjundayya.

9. The deceased lies on his back with his head bent forward due to a support of the wall behind. The eyes and mouth are closed, hands and legs extended and rigid. Abdomen is swollen. There are two Panchays, one tied round the waist and the other lying below the back, the latter one is partly soaked in blood. The blood on the floor behind the back of the deceased is partly dried. There is a large irregular lacerated wound on the left cheek extending downwards up to the clavical of the same side measuring five inches long, two inches wide and one inch deep. The lower jaw of the left side is broken and exposed, blood is clotted on the wound and a little serum oozing out of it. Nothing else suspicious was found on the ground around the body of the deceased.

HARIHARPUR.

Dated 9th June 1891.

K. ABDUL KHUTHOOS,

Hospital Assistant.

Medical or Mortuary.
Serial No. 13.

FORM No. XVII.
POSTMORTEM REPORT No. II.

Station-Hariharpur.

Date-9th June 1891.

Name.	Sex.	Age.	Caste.	Whence brought, Village Tannah.	Date and hour of—		Information furnished by Police.
					Despatch.	Examination.	
Krishnaraya	Male	37 years.	Brahmin.	Nemmar Sunkadmokki Station.	6 p. M. 6th June 1891.	7 A. M. 7th June 1891.	Krishnaraya of Nemmar was shot by some- body.

N. B.—Observe the state of all the organs and when no disease or injury is found, write "Healthy."

I.—EXTERNAL APPEARANCES.

1.—Condition of subject, stout, emaciated, decomposed, &c.	2.—Wounds, position, size, character.	3.—Bruises, position, size, nature.	4.—Mark of ligature on neck, dissection, &c.
I.—C. Well developed and stout <i>Rigor mortis</i> set in.	A large irregular lacerated wound extending from below the molar bone of the left side up to the clavical of the same side, measuring 5 inches long, 2 inches wide and irregularly deep.	A small bruise of the size of a split pea just above the wound described.	Nil

II.—CRANIUM AND SPINAL CANAL.

1.—Scalp skull and vertebræ.	2.—Membranes.	3.—Brain and Spinal cord.
Scalp and skull entire and healthy. The bodies and laminae of the sixth and seventh cervical and the 1st and 2nd dorsal vertebræ comminuted into innumerable pieces.	Anæmic and healthy but the membranes of the spinal cord injured.	Brain healthy. Spinal cord injured and lacerated and the spinal canal open.

Note.—The spinal canal need not be examined unless any indication of disease or injury exist.

III. THORAX.

1.—Walls, ribs and cartilages.	2.—Pleuræ.	3. Larynx, and trachea.	4.—Right lung.	5.—Left lung	6.—Pericardium.	7.—Heart.	8.—Large vessels.
Entire and healthy.	Left pleura highly congested and contained about three pints of higher sanguinis mixed with lots of blood.	Exposed.	Healthy.	Apex injured and highly congested.	Healthy.	Healthy, both sides empty.	Carotid artery and veins in its sheath torn across.

IV. ABDOMEN.

1.—Walls.	2.—Peritoneum.	3.—Mouth, pharynx and œsophagus.	4.—Stomach and its contents.	5.—Small intestine and its contents.	6.—Large intestine and its contents.	7.—Liver.	8.—Spleen.	9.—Kidneys.	10.—Bladder.	11.—Organs of generation, external and internal.
Healthy.	Healthy.	Exposed.	Healthy, contained semidigested rice.	Healthy, contained chyme.	Healthy, contained feces.	Healthy.	Healthy.	Healthy.	Healthy.	Healthy.

V. MUSCLES, BONES AND JOINTS

1.—Injury.	2.—Disease or deformity.	3.—Fracture.	4.—Dislocation.
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All the muscles and nerves of the left side of the neck are torn and lacerated. The lower jaw of the same side is broken into pieces one molar tooth broken and fallen, and one molar and one bicuspid chipped off. The sternal end of the left clavicla is splintered.

More detailed description of injury or disease.

✓ The deceased lay up on a mat on his back with the head bent forward due to a support of the wall behind. Eyes and mouth closed, mouth twisted to the right side, hands and legs extended. The mat and the floor on which the body of the deceased lay and the panchey worn by him are soaked in blood from the wound. On minute examination of the wound, a piece of wood, most probably belonging to the one affixed at the base of the bullet to give it a good balance, was found in the wound. A cartridge and a bullet were found in the same veranda, they are neither mentioned in the mahazur nor sent with it.

Opinion as to cause of death.

I am of opinion that death is due to a homicidal gun-shot wound, the projectile most probably being a bullet.

HARIHARPUR, }
9th June 1891. }

K. ABDUL KHUTHOOS.

Hospital Assistant.

I concur.

P. S. ACHYUTA ROW,

12th June 1891.

Offg. Civil Surgeon,

Kadur District.

No. 860.

STATION CHICKMAGALORE.

DATED 3rd OCTOBER 1891.

From

The Civil Surgeon,

Kadur District.

To

The Deputy Commissioner,

Kadur District.

Sir,

In reply to your No. 425 dated 29th September 1891, I have the honor to state that an English translation of the Mahazar in question is herein enclosed the original has been asked for and on the receipt of the same from the Hospital Assistant of Hariharpore it will be duly forwarded.

I have carefully gone through the P. M. Report, your notes taken after our meeting to discuss the P. M. Report, and the Mahazar drawn up by the panchayetdars during the police inquest on the body.

It is difficult of course to be exact in stating the direction the bullet took and its further progress in the body from reading over the description of the wound given by the Hospital Assistant. A personal observation of the wound would have ensured greater accuracy so far as I could make out. However it looks to me that the bullet first smashed the lower jaw, then the sternal and of the clavicle (the collar bone), then passed through the neck shattering the muscles and the arteries and then through the spinal column, shattering the bodies of the 6th and 7th cervical vertebrae and laying open the spinal canal.

It appears to me also as most probable that the murderer must have stood with the muzzle of the gun aimed slightly to the left and in front of the deceased probably on a slightly lower plane than that of the face of the deceased.

The Post Mortem Report does not make any mention of the exit of the bullet. The Hospital Assistant has been directed to report in detail upon this matter as also to intimate if he would depose as desired in para 4 of your letter under reply.

It is to be regretted that the Hospital Assistant does not say whether the bullet he refers to as having been found along with a cartridge was or was not flattened splintered or in any way altered from its original form. He does not also say whether or not the cartridge was empty one. He has been directed to report upon this too.

I have the honor to be,

Sir,

Your Most Obedient Servant,

P. S. ACHYUTA ROW,

Offg: Civil Surgeon, Kadur District.

From

The Hospital Assistant

Hariharpur.

To

The Civil Surgeon,

Kadur District.

Dated 5th October 1891.

No. 271

Enclosures No : 2.

With reference to your docket No. 857 dated 2—10—1891, enclosing the Kadur District Deputy Commissioner's letter No. 425 dated 29—9—1891, and the Post Mortem report on the dead body of Nemmar Krishna Row, I beg to state that the cartridge found near the body was loaded and I recollect, marked in red ink with the initials of Reserve Jamedar. The bullet in question was quite altered and very much disfigured.

I am quite sure and certain that the bullet did not remain in the body. There was no other wound for the exit of the bullet; but it came out of the body from the same opening from which it entered the body after it met the hard bony surface of the vertebral column, and the clavical might have been splintered on its way back.

The Post Mortem report No. II and the Kadur District Deputy Commissioner's letter No : 425, dated 29-9-1891, are herewith returned.

I beg to remain,

Sir,

Your Most obedient Servant,

K. ABDUL KHUTHOOS,

Hospital Assistant.

EXHIBIT W.

BEFORE H. H. SPARKES, Esquire,

DISTRICT MAGISTRATE,

KADUR DISTRICT.

CAMP YEDEHALLY.

Name Abdul Khudoos.

Age—24.

Caste—Mahomedan.

Father's name—Mahomed Oomar.

Residing at—Yedehalli.

Occupation—Hospital Assistant.

Duly Sworn.

I held the Post Mortem on Nemmar Krishna Row's body in June 1891. The Amildar was not there as he received information just then that his mother was seriously ill and who died some 5 or 6 days afterwards. The deceased's brother was present at about 20 or 30 yards distance. Abba Sett was also present about 20 yards off. My compounder Sidda was present at the time. Abba Sett was close by when the body was first cut but could not bear to see it, and went off to a distance. I took about $\frac{1}{2}$ an hour over the examination after which some Brahmins came and took it away. My theory is that the bullet rebounded back and escaped by the same hole by which it entered and that it rebounded off the vertebral column. I examined the column and found one or two of the bodies of the vertebræ column broken and which must have been done by the bullet, all this was stated in my Post Mortem Report. Considering the position of the body the bullet must have passed through 3 or 4 inches of flesh before meeting with the vertebral column. The wound was very much lacerated. I am perfectly certain that there was only one wound in the body. I directed my compounder to cut the body while I took the notes. Another man was present helping the compounder but I don't remember his name or anything about him. I never saw him before or since. The plug of wood was found in the pleural cavity.

Read over and admitted to be correct by the Witness.

Dated 15th July 1892.



H. H. SPARKES.

The Witness now explains that the other man he mentions was appointed by the deceased's relations to dissect the body as Witness not being a Brahmin the body would lose caste, consequently the witness consented to allow the other man. No objection was taken to the compounder Sidda as he was a Mahratta.

Dated 15th July 1892.

H. H. SPARKES.

Maler Subba was also brought up this afternoon, and after a long rambling conversation stated as follows :—

My native place is Megunda, is about 3 miles from Kootugode ; my age is about 18 years ; I have been employed at Kootugode as Bill-collector for the past two months ; before that I was employed at Singa Bhatt's Karkana at Herur as Mestri for about five months ; Herur is about a mile's distance from Kootugode.

I have known Police Ramanna for about 9 months that is since about the last Divalige ; while at Herur I had to go once a week to Kootugode and make a report as to how many days each cooly had worked during the week ; on one of those occasions I met Police Ramanna about a furlong from the house ; I did not talk to him ; I did not then know who he was. About four or five days after this Ganjigudige Shamaiah and I came from Herur to collect betelnuts from the garden ; we were employed there three days ; during that time Police Ramanna was there ; he spent his time mostly in the company of Gundappa ; I did not see Ramanna again till Tuesday (four days before Nemmar Krishna Row died) ; I know it was Tuesday because I went that day to Halugar to tell Subbaniak to settle his account ; I did not find Subbanaik at home so I slept there that night, and returned on Wednesday afternoon ; when I came, Gundappa, Bellaia, Police Ramanna, Bellandur Ramu and the Gumashtas were sitting in the Verandah. I gave Subbanaik's letter to Gundappa. I then went and ate my food, and afterwards came to the Verandah ; it was then about 5 P. M. or a little later.

I then saw *Sasimane Narasia sitting there ; after this I went with Ven-

*NOTE:-This man has throughout been suspected of being concerned in the murder and was examined by me on the 23rd June, but nothing could be learnt from him.

GEO. D.

katagiri and Singanna to look for herbs to apply to the necks of the calves which, it was said, had been scratched by a tiger on Wednesday. All the others went in to supper and as soon as they had eaten I went in at about 8 P. M. and ate my food and afterwards came to the verandah ; Gundappa and Bellaia had already gone to bed inside the house, while Surappa, Venkatia Surappa's son and Sasimane Narasia were lying down in the verandah ; Venkatagiri was awake, and Police Ramanna had the gun in his hands, and immediately afterwards fired it off once ; then Lingoji took the gun and he and I went to the cattle-shed to see if there was any disturbance there, that is if the tiger was about ; we saw nothing, so Lingoji went to his house and I returned to the verandah with the gun and gave it to Venkatagiri who handed it to Ramanna and he fired off the other barrel, and then placed it against the door near his bed. All of us then lay down and went to sleep. Next morning Police Ramanna was not there, nor was Sasimane Narasia ; the gun also had been taken away. Bellandur Ramu was there on Wednesday and Thursday. I went on Friday morning to Megunda to tell Singa Bhatt's creditors to come and make up their accounts. I did not return till about 11 A. M. on Saturday. Surappa came at about the same time from Sringeri along with Singanna ; Surappa brought the news of Nemmar Krishna Row's death.

Police Ramanna left Kutgod on Sunday at about 7 A. M., and Bellandur Ramu was there for seven or eight days, that is until I went to Herur as I was ill.

(The above statement was recorded by me yesterday and today.)

Sollebaile-13-7-1891.

(Signed) GEORGE DUNNING.

2. Examined Nemmar Ranga Row, brother of the deceased Krishna Row.

I went to the riverside on Sunday morning to the burning of my brother's body. Venkatachella Bhatt, Gopal Devasthana Krishna Bhatt, Kiggada Visvesvariah, B. Manjappah, Yedadanti Phaniappa and many others were there. I went to the spot at midday just as they were about to burn the body. The Amildar was not there then; the Dresser &c., had all gone away. I do not know where they had gone to. I was so full of grief that I did not ask many questions. I heard them saying that Puttanna had dissected the body. I do not know anything about any other subject. Modula-byle Karriappa (Nadarava) shewed the flattened bullet to Srinivassa and Gundappa (Gopaliah) on Sunday on which day he found it on the ground below the pial. It is true he found it there. The Jemmadar sent word to send it to him and Karriappa brought it to the Jemadar at our house on Monday morning. When he brought the bullet Hostarhadlu Seshayya, Jamedar Nanjundiah and some two Police Constables were there. The Jemmadar took down Karriappa's statement. The Jemmadar returned to Hondalamane at about 2 P. M. on Sunday. Karriappa's house is about a quarter of a mile from Hondalamane. Some one showed me the unexploded cartridge, I know a little English and recollect the signature of B. Narniengar was on the cartridge. Sunkadamakki Ramanna came without any Police Constables on Friday night; the next morning he was there for some time and then went away at about 8 A. M. and returned at midday. Muruvinkombe Seshayya asked Ramanna if any cartridges were missing from his station and he said no, and that they might examine them if they liked.

While waiting for Venkatachellaiah on the 21st morning Phanniappa, brother of the deceased Nemmar Krishna Row, called on me at the Amildar's office. I questioned him with special reference to the finding of the unexploded cartridge with bullet attached and of the discharged bullet. He made the following statement:—The unexploded cartridge was found by Venkatachella Bhatta early on Saturday morning, while the flattened bullet was found by Badige Sankara about 10 o'clock the same morning. The flattened bullet and the cartridge were shown to the Amildar but he said that the bullet could not have been found down in the "angala" (court-yard) in front of the house, and must be lodged in the body, and that the Hospital Assistant should dissect the body next morning as it was then getting dark. Modulabaile Karriappa told him (Phanniappa) that he had picked it up off the pial, where it was lying after the Mahazar was written, and that he had kept it. The Jemmadar sent for Karriappa on Monday morning and he brought the same bullet. The Jemmadar did not take down any written statement from Karriappa.

Neither Visvesvariah nor he (Phanniappa) said anything to the Amildar about allowing Puttanna to cut the body. Berkodigi Manjappa was moving about here and there near the riverside on Sunday morning. Phanniappa did not see the body after it was taken under the trees by the Hospital Assistant; when it was brought back it was covered with a cloth and leaves. He saw the Hospital Assistant's servant carrying the instrument box towards the trees where they dissected his brother's body. He does not recollect whether any of the 4 Brahmins who carried the body remained near it during the Post Mortem Examination. Puttanna never told him that he had cut the body, and he did not believe it at all.

EXHIBIT XXII.

Statement of Honnedevasthana Nagappah :—

One day about 3 or 3½ months ago I was out looking for a cow that had strayed away and I left my house at about midday and went looking for it in several of the adjoining villages, and was returning home about 8 o'clock in the evening; when I got to Keredandi I met four persons coming along on the road leading to Nemmar; On asking them who they were, Tammaiah Setti answered it was he, and I then looked and saw Dharanaiah Setti, and again W. Venkatachelliah and a man with a cambly on carrying a gun which he hid as soon as he saw me; it was Khandari Mahomed Shakha; I had no torch with me but I could easily understand who it was as I have met him very often; Dharanaiah Setti did not talk to me, he went along with the others; it was only Tammaiah Setti who answered to my query. I made them all out by their gait dress &c. The next day or the day after, I heard that N. Krishna Row had been shot dead. It did not raise my suspicions at the time. I did not suspect them as the probable murderers even after I heard of N. Krishna Rao's death by gunshot. I thought they might be going on some private business; I did not think this information valuable; I did not know of the reward offered to any one who might obtain the right clue in the case. If I had I should have at once come to the Police Assistant Commissioner and reported what I had seen. It was only because Ramanna came the other day and told me that the Police Assistant Commissioner wanted to see me that I came down here.

(Signed) GEORGE DUNNING.

Chickmagalur 26th Sept. 1891.

SPECIAL DIARY OF THE AMILDAR KOPPA TALUK.

Dated 6th June 1891.

1. I. P. C. Section 302.
2. Sunkadamukki Station, Koppa Taluk.
3. No.
4. No. of Case.
5. Through the report of the Station Officer at Sunkadmakki at 9 A. M. on 6—6—1891.
6. } From 4 P. M. on 6—6—1891 till 8 P. M.
7. }
8. Paniappa's pial.
9. Described under this.

I was at Hariharpur at 9 o'clock this morning, when I heard from the 'tanedar' (the person in charge of tana) the following news: "The Patel of Nemmar reported that Nemmar Kristna Row was shot to death with a gun yesterday night &c. and that he immediately went to that place."

The scene of murder is 20 miles away from Hariharapura. The deadbody may become putrefied after it is sent to the place, if it be retained here till the completion of the Mahazur. It is very necessary to know at once the medical opinion as to the state of the corpse and the direction of the blow. I started from Hariharapur with the Hospital Assistant of Hariharapur and reached Nemmar via Sringeri. I examined Nemmar Krishna Row's corpse, which was lying on Nemmar Paniappah's pial, in the presence of the panchayets. I have forwarded the Mahazir herewith for your perusal. As it has become dark today, the Post-Mortem examination cannot conveniently be held to-day. I caused the house and its neighbouring portions to be examined. There is a room to the South of the spot where the corpse is lying; there is a window, somewhat high behind this room. Here, there is one wild 'jhudapu' (jhudapu—a wild bushy tree) almost hiding the view (of inner portion) from strangers. The grass seems to have been trodden, which favors the presumption that some one might have sat under the 'jhudapu'. There is one window in the aforesaid southern room. If we stand at the said place and look through the window, we can see the spot where the corpse is lying and the people on the pial. No other suspicious marks are to be seen here.

All the people in this house are greatly frightened; none can be suspected. I have been trying to find this out. Submitted.

Dated 7th June 1891.

(Signed.)

Amildar.

SPECIAL DIARY OF KOPPA TALUK AMILDAR.

Dated 7th June 1891.

1. I. P. C. Section 302.
2. Sunkadamokki Station of Koppa Taluk.
3. No.
4. No. of the Case.
5. 6—6—1891.
6. 7—6—1891.
7. 7—6—1891.
8. } Are detailed hereunder.
9. }

Government.

Complainant.

Vs.

Not known.

Accused.

This morning, when the dead body of Nemmar Krishnaraya was lifted up, from the place where he was shot, pieces of papers wrapped round the cartridge and also a broken tooth were found. Hariharpur Hospital Assistant examined the dead body, and informed that the death of the deceased Krishna Raya was caused from the effects of the bullet of the gun. I am also of the same opinion.

The deceased Krishnaraya's mother Giriamma, about 68 or 70 years old was examined; she said that "the deceased Krishnaraya is my son; the day before yesterday noon 'Durga Sunthurpanay' (feast given to Brahmins &c.), took place near the river of Survesvara temple, and he had gone there to take his meals; after taking his meals, he came to the house in the evening at the time of lighting the lamp, and performed his evening prayers; this being done, he sat down on the pial, outside, reading. A boy, by name Krishna Charry was seated with him. None appeared to have been standing outside. We all remained inside the house, and heard the report of a gun. Puttannia and Doddaswamiengar, who had taken their seat on the northern room of the said pial, came out and saw; (they) cried out saying that the light which was burning at the place, where the deceased Krishnaraya was reading, is extinguished, that Krishnaraya is lying dead, and that a light be brought from inside the house to see the same. Immediately, his wife, myself and others, who were inside the house, came out and saw; my son Krishnaraya was lying dead; there were several wounds on his left cheek; there was bleeding; from this, I gather that his death is caused in consequence of the shot of gun received, from some of his enemies; he did not die of any other cause."

2. The deceased Krishna Raya's own elder brother Phaniappa was examined; he said that "The deceased Krishna Raya is my younger brother; the

day before yesterday noon, Krishna Raya, his wife Lutchamma, and his other younger brother Runga Raya, (and in all) these three persons, attended 'Durga Sūntarpanay' which took place near the river close to Survesvara temple; they returned to the house, after meals, in the evening, at the time of lighting the lamp; immediately after his arrival, he (the deceased Krishna Raya) performed his evening prayers, and then sat along with the boy called Krishnacharry on the pial, outside the house; he was taking his lessons in 'Sābdamanjari' from that boy; all the other persons remained inside the house; I was reading 'Parayana' inside the house; it may be about 1 or 1½ hour, after the lamp was lighted, I heard the report of the gun, outside our house. As I was thinking about the reason of the report of the gun so close, Puttannia came inside the house and informed that some one shot my brother Krishna Raya and that he is dead, being wounded; immediately, I went out and saw; there were wounds (on the body of) Krishna Raya, from his left cheek, to his shoulder; there was bleeding; the life had extinguished, by the time I and others came out of the house and saw. We have several enemies; some one of them, came and shot my brother, the said Krishna Raya; it is not known which particular person did the said act; I cannot, at present, suspect any one; if I should understand anything about it hereafter, I shall then communicate the same."

3. On enquiry, Runga Raya, the younger brother of the deceased Krishna Raya, stated that "Krishna Row is my elder brother; he, his wife Lutchamma and I attended 'Durga Sūntarpanay' which took place on the day before yesterday noon; we returned to our house, after meals, in the evening, at the time of lighting the lamp; the deceased Krishna Raya offered his evening prayers, and sat down on the pial outside (the house), along with a boy called Krishnacharry; he was taking his lessons in 'Sābdamanjary' from that boy; my elder brother Phaniappa and I were reading 'Parayana', inside the house; it was then about 1—1½ hour, after the lamp was lighted; at that time a report of the gun was heard, outside our house; we were thinking as to who might have fired the gun so closely; by that time, Puttannia came in, and said that my elder brother the deceased Krishnaraya is (shot dead); immediately after, we all went out and saw; there was no life; he was dead; there were wounds (on his body), from his left cheek as far as the shoulder; there was bleeding from the said wounds; yesterday morning, Venkatachala Bhutta gave a cartridge saying that it was lying, by the side of the Western wall, on the Southern pial, which is attached to the said pial; my elder brother's son Gopalia has produced that; my elder brother must have been shot by such cartridge; there are several enemies; one of them might have done the said act."

4. On enquiry, Lutchamma, widow of the deceased Krishnaraya stated that "The day before yesterday, my husband, my 'maida' (husband's brother) and I, attended 'Durga sūnturpanay', and returned to our house in the evening; afterwards, my husband offered his evening prayers, and sat down, reading a book, on the pial outside the house; at that time, one of my husband's enemies came and shot him dead; not known as to who shot him".

5. Gopalayya, son of Singappa the elder brother of the deceased, stated that "My uncle Krishna Raya, on the night of the day-before yesterday, was

taking his lessons, in 'Subdamunjari,' on the pial, from a boy called Krishnama Charry ; at that time, one of his enemies came and shot him dead ; not known who it is. Yesterday morning, Venkatachala Bhutt gave a cartridge to me, saying that it was lying on the place, which I now pointed out ; yesterday, I have produced it."

6. On enquiry, the boy called Krishnama charry, about 14—15 years old, stated, that " On the night of the 5th instant, I was teaching 'Subdamunjari' to Krishna Rao at the place, where he was killed ; light was kept inside the room, towards the South ; Krishna Rao was reading bending ; it was pitch dark ; no persons were seen outside ; in the front room, my elder brother Doddasamiengar and others were present. It appeared black to the eye, as if some body came near the 2nd pillar of the 'chowki' (pial) of the east, attached to the wall of the southern room ; by that time, noise 'putt' was heard ; immediately after, 'Dum' noise was heard ; light was put out ; I got frightened and remained quiet ; a little while after, light was brought from the front room ; Krishna Rao was found (shot) dead ; there was bleeding ; after the gun was discharged, the deceased made no noise ; I do not know as to who had come (there) ; I did not see (them)."

Note.—The distance, between the place where the boy is alleged to have seen the black article, and the place where Krishna Rao was (seated), is 5 yards ; the cartridge, referred to in the Mahazur, was found, by the side of the said site ; as the light was facing the North, and as the deceased was reading bending his head, in front of the light, there was no occasion for the deceased to have seen the person standing, by the side of the thick pillar, in 'Kotiga', on the Eastern side ; the light of the lamp was not bright ; the lamp light (that was burning there, helped the outsider) to see the deceased person conveniently ; the light does not extend to the place (where the person, that came to shoot, was standing). Outside the wall of the room in 'Kotigay' there is a door on the Southern wall ; as it was kept open then, it facilitated the ingress and egress to the murderer. Outside the door, there is an open-yard ; further off, there is a road leading to forest or jungle.

The deceased had a large family, and was an influential man, in this part of the country. As every one was engaged in burning his body and in mourning (for the loss), no further investigation could be held.

He (the deceased) had given troubles to several persons, and was not on good terms with many ; therefore there is no clue whatever, up to date, to find out the person, who committed the said act. After learning some private information from the neighbourers, I proceeded to Sringari ; I went over several places during the night, and learned that " there was zid between the deceased and an influential man, from a very long time ; in the latter part of the last month, the deceased proceeded to Shimoga and instituted some cases against him ; he (deceased) had disgraced a certain 'Halay Paika Davun,' in connection with 'Lagna' (marriage) ; some conspiracy is, of late, going on in Sringari ; a certain fellow, who had joined the said conspiracy, is not to be had in the village, since Saturday." I am trying to ascertain the truth of all these.

The cartridge that was found in Nemmar bears '5-9-90 Binny'; it is not known to what Talook the cartridge (was sent,) on that date. When our Register was seen here, no marks were found on cartridges; it may be said that the cartridge belonged to Police; if so, (the cartridge) could not have been taken out, without the help of the accused; I am gathering information here, regarding all these. In your Honor's office, does the reserve Jamadar put his initials on cartridges?;—if so, on the said date, to what place, was the *Not clear cartridge supplied to? Is it possible for others, to remove cartridges from the store? I beg that orders may be issued to me, confidentially, regarding these matters.

NEMMAR.

Dated 8th June 1891.

(Initialled.)

HUKKUM.

There is no Dakhala here to show that Cartridges were supplied to the Koppa Taluk from the stores in the month of September. But there is reference here to show that 24 "Thotas" (Cartridges) were despatched on 17th October 1890 with order No. 1110 in compliance with your Itilla No. 1264 dated 1—11—1890 which is herewith forwarded for ready reference. On the paper covering the Cartridge produced by Gopaliah alleging that it was found near the corpse of Nemmar Krishna Row, I find the initials of Reserve Jemadar bearing date 5—9—1890 ; this shows that it may have been probably dated before but despatched from here (with other things) on the 17—10—1890. The Reserve Jemadar Narniengar says that he feels unable to say definitely what it is till he sees it.

2. In the statement of Gopaliah it would appear that Venkatachela Bhatta delivered to him a flat Bullet, connected with a cartridge which had been fired off, saying that it was found in a place close by. But Venkatachela Bhatta's statement does not seem to have been obtained. It does not therefore become clear *where* Venkatachela Bhatta found this bullet. The Amildar should ascertain this fact.

3. In the "Shara" (note) made by the Amildar at the foot of the Mahazur under date 6—6—1891, it is said that the body should be subjected to Post Mortem Examination to ascertain whether the Bullet is in the body or not. According to this note, it is not known whether the body was actually dissected and examined by the Hospital Assistant or not on 7-6-1891. If according to the order, the body had been cut and examined and bullet discovered inside the body, how can it be believed that the bullet and the bit of the cartridge, which were caused to be produced by Gopaliah alleging that they were found lying somewhere outside, were the things used for shooting the deceased. This requires explanation in detail. A copy shewing the result of the Medical Officer's examination may also be submitted.

4. It is said that some people in Sringeri had conspired to bring about the murder of Nemmar Krishna Row ; that one of them was an influential man who owed a grudge to the deceased and that there was also *zid* between the deceased and a Halai-pyka man in consequence of the former having filed a suit against the latter at Shemogah. It is also said that out of the persons who had conspired at Sringeri to bring about the death of the deceased, one of them (name omitted) disappeared since the commission of the offence. Now who are the persons that conspired? Who is the person that has now absconded? Who is the influential man referred to? What are the informations received regarding this and from whom the informations were received? What are the enquiries instituted by the Amildar and what did he learn from people. If no detailed accounts are given regarding these points I am afraid that the truth which we may hereafter ascertain, may be viewed with suspicion. Therefore I request you to give me these informations in detail--and if necessary you may inform me privately. You will also let me know the result of your subsequent investigations, of course, in detail.

5. Are the cartridges which are required to be kept ready at the nearest stations correct? Did any one take the gun or cartridges from the station on the day the offence was committed? If so who had taken? Was the cartridge taken returned to the station? Was any supply of cartridges made to the said Station subsequent to September? All these and other facts should be recorded in detail.

6. Please also send me a plan shewing in detail the following particulars:

The scene of occurrence;

The facilities that people have thereabout for committing the offence;

The facilities they have for escaping seizure;

The facilities they have for escaping observation by deceased;

The place where Krishnama Chari had seated;

The place where the corpse lay; and

The place where other people had stayed;

7. Such offences are constantly being committed in Koppa Taluk. Very seldom the cases are detected. I believe the Amildar is quite capable of working out this case without following the existing usage or practice. You have already mentioned that out of the persons who had conspired, one whose name has been omitted from being mentioned, has disappeared. This I am afraid you will make it as an excuse for detecting the culprits till he is arrested.

At any rate I expect to read next diary of the Amildar.

(Signed.) GEORGE DUNNING.

As the Amildar possesses large local knowledge of the Taluk, he is requested to exert himself and unravel the mystery of this daring murder.

(Signed). GEORGE DUNNING.

Dated 12th June 1891.

SPECIAL DIARY OF AMILDAR KOPPA TALUK.

Dated 9th June 1891.

1. I. P. C. Section 302.
2. Sankaramakki station, Koppa Taluk.
3. No.
4. Number of the case.
5. 6th June 1891.
6. } 9th June 1891.
7. }
8. } Described hereunder.
9. }

*Complaints.**Accused.**Government.**Not known.*

The details might have been known from
Diaries 1, 2 and 3 of this case.

When the servants of the deceased,
1 Holair Singh, 1 Holair Dodda Singa, } They stated that they knew it not.
1 Bola, 1 Bela, 1 Thala and Gowdla }
were enquired,

Holair Masty ... { "On the day Kristna Row died,
at noon i. e. when the sun was above
head, I was carrying firewood. Sasimane Narasimhiah was standing on the
road near the deceased's house, looking towards it. I asked Narasiah why he
was standing there. "For nothing at all" said he and went back." This is
what Masty said.

Mudduby-Thammanna of Nador caste. { "I, who had been to Malnad
country on account of a marriage,
returned yesterday to my house at 9 'thasu' (thasuhour). Before my coming,
it appears that Sasimane Narasiah asked my wife if I was at home. She told
him that I was not in the house. It appears he went away hearing this, I do
not know why Narasiah had come to my house."

Note. It is broadly rumoured here that Heggadethotada Siviah, Vagale Venkatacheliah, Sasimane Narasiah and Belandur Ramu concerted together and procured a 'Kovigara'. (Kovigara—hunter) from a foreign place to commit murder and that the people of Koothagodu aided this act. There are numerous people who belong to the country of the deceased and Koothagodu. A deep mutual hatred is found among them. It is not easy to arrive at truth hastily.

I am now informed of a secret that some people from Koothagodu were in search of a gun a few days ago. This information is secretly presumed; no satisfactory evidence is given; I am trying to discover the truth.

I sent for the cartridges in Kereganti. It is written on 8 cartridges in red ink '16—9—90 B. N. Re. Cha.' They seem to be a little old. The cartridge found at the scene of murder seems to be a new one. I hear that one police-peon Ramannah, who came from Chikkamagalur stayed near Sringeri for a few days. I hear also that he is on leave. I will find out the truth of this.

Nemmar Paniappah has petitioned to me that he would offer a reward of 100 Rs. to the person who detects the offender in order that he may be punished by Government. I have filed the petition herewith. It may be inserted in the Gazette after your perusal. I have given a fakid to all stations.

Dated 10th June 1891.

(Signed.)

AMILDAR.

(3)

Section	As
File No	24-92
Serial No	1

To the Sessions Judge
 Shimoga
 From Chief Secy.

Please send to Headquarter
 the entire record in Nemmar
 Murder Case -

19/7/93

Urgent

Office of the Dewan of Mysore.
 Dated Mysore, 19th June 1893

Camp No 889

Post Copy of the above message is
 forwarded to the Sessions Judge, Shimoga,
 for information.

B.O.
 Draft: 19/6/93
 Chief Secy

0.) OFFICE OF THE
15-222
893 336 1111 093
9. 132
OFFICE OF THE

From

File No

Serial No

To

*The Chief Secretary to the Dewan
of Mysore.*

Forward to Asst Genl Advocate
and intimate to Insp
Genl of Police, as directed
by the Chf Secy. Mm

26/6/93.

Dated 19th June 1893.

Despatched 23rd / -

Received

Enclosures No. *(Records)*

Enclosures No. *(Records sent from H.Q. Quarters)*
General No. 200
No. _____

His telegram dated
the 19th Instant.

As called for in the
above has the honor to
forward herewith the
record, as per first,
of the Immari murder
case and to state that
the documents which
have

have been noted in the forests, as
having been sent to various courts
as mentioned therein to enable the
disposal of pending cases, have been
called for from these courts and
will be duly forwarded to his office
on receipt.

Chitaldung
my

M.M.

Shenmum
Sessions Judge
Nagar Division

1 O.S. No. 67 of 1892. *Deff. Lingappa & another, Asst. B. files, 11. Its enclosures four records & one account book mentioned in Serial A. (These records & the book are separate from the records but are filed with it. These records contain exhibits of the Kemmar murder case.*

1 O.S. No. 117 of 1892. *Deff. Lingappa & another, Asst. B. files. The sealed cover, Affidavit No. 8 of this record contains 47 seals of the G. Achallu. In many of four.*

1 O.S. No. 207 of 1890. *Deff. Collins & Harasappa, Asst. B. files. (The document, A. Serial No. 23 & 24, is detached from the record but is put up with the record). This record contains Ex. B of 27 of the Kemmar murder case.*

G. Achallu. In many of four.

(General Serial No. 30.)

1893

OFFICE OF
155243
30

6

From

the Sessions Judge
Kager Division

Section

File No

Serial No

To

Chief Secretary to the
Government of Mysore

Dated 26th

Despatched 29th

Received

Enclosures No.

General No. 211

No

Records as per
margin sent from 18-20-93

In continuation of this office
No. 200 dated 23rd instant has
the honor to forward the records
noted in the margin con-
taining certain exhibits
filed in the Kemmar murder
case both for the prosecution
and the defence.

Chitalding

Sd/-

Session Judge
Kager Division

Written to the Assistant
for records

Pro. Mr
30/10/93

Recd 1/11/93

7

No 2144

27.6.93

J.F. 195-92

Section	Obt. 92
File No	24
Serial No	4

The Asst. Govt. Advocate Mysore.

As requested by the Distt. Magistrate of Kadur & the District Police, has the honour to en-

J 1192

formated, the record as per List of the Karmar murder case, re- together with copy of the Nagar den- ceined from the Supreme

Judges, Nagar Divi- sion, with his Docket

No 200 dated 23rd c with which was received in- stant as requested

by the District Magistrate, Kadur, and Inspector General of Police in Mysore. "By order"

Mrs 27/6

For Chief Secy. -my.

26/6/93

(8)

No 71442-3

8/27-6-93.

F. 105-92

Section	C
File No	24
Serial No	5

Inspector General
 of Police in Mysore &
 the District Magistrate,
 Kadur.

J. 1193 and J. 1194

Inspector G. C.
 Letter No 3792

d/ 17. 6. 93.

District Magistrate's
 Letter No 650 d/
 5th June 193.

With reference to
 his letter no — d/
 has the honor to in-
 timise that the record
 of the Kemmar murder
 case, ~~is~~ received
 from the Sessions
 Judge, ^{Kadur} with his
 Docket no 200 dated
 23rd instant, ^{has been} ~~was~~
 forwarded to the
 Spt. Govt Advocate
 "per order"

[Signature]
 26.6.93

Mun 27/6
 For, Chief Secretary

No. 510
 J. F. 105-92-13
 26

Section	<u>Asst</u>
File No	<u>24</u>
Serial No	<u>6</u>

The assist for
 advocate in
 Mysore.

g. 26

bated

In continuation
 of this office docket
 No: 21441 dated 27th
 J.F. 105-92
 ultimus, forwards copy
 of docket No: 211 of 26th
 from the Session Judge Mysore
 June 1893, together
 with certain exhibits
 filed in the Kumar
 murder case received
 with it.

B. O.

Mm
 8/7
 Chief Secretary

8.7.93

enclosed as
 per margin of
 this letter: J.F. 105-92-13
 No. 211 of 26/6/93
 Sent in 2 separate
 packets

(10)

Read:-

Section	Ch
File No	2u
Serial No	9

Letter no: 650 dated
5th June 1893, from the
District Magt^e, Kader,
requesting the Govt to
direct the Public Prose-
= cutor Mr. Sundram Iyer
who has conducted the
Nemmar murder case
both before the com-
= mitting Magt^e and
the Sessions Judge to
instruct the Govt^e advo-
= cate in connection with
the reference made to the
Govt^e advocate
by the Distt Magt^e
Kader, to express his
opinion in the matter
of preferring an appeal
against the order of
acquittal passed by
the

the additional Sessions
Judge in the case

Order N^o. 880-82
J. 5-9

Under the cir-
-cumstances represented
in the above the Public
Prosecutor Mr Gundram
Iyer will, if the Govt
advocate ~~so~~ desires, be
authorized to proceed
to Bangalore and
instruct him, as re-
-quired by the Dist
Magte. & Munsif Magistrate
Kadur as Public
Prosecutor Kadur

W. H. J.
Chief Secretary

L.

.. The Dist Magte. Kadur

.. The Govt advocate

.. Mr Gundram Iyer Public
Prosecutor -

13.7.93

Recd: 14/7
Retd: 18/7

So, it to revise the facts
to prefer an appeal are not
given -

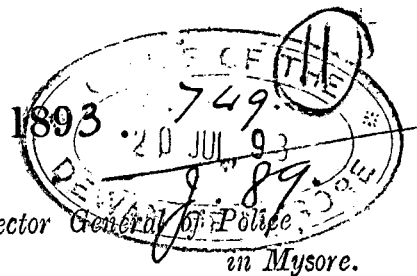
21.7.93. S

W

Please draft a
call for them -
encly the Memo in
prepared by the
Public Prosecutor & the
Govt's opinion
herewith attached to

26/7

Drafted
indrew 26/7
for 26/7 & reply
from 26/7
The 26/7



From The Inspector General of Police in Mysore.

Section To Ch
File No. 24
Serial No. 8

Dated 19th July 1893.

Despatched

Received 20/7

General No. 227

Enclosure.

SUBJECT.

Requesting Government
sanction to appeal against
the order of acquittal in
the Nemmar Murder Case

Urgent

J. M. M.

20/7/93

Subd for order.

Judgt having been passed
on 13th March. time for appeal
will expire on 13th Sept next.

Mysore Govt. C. Press, Bangalore. - 27-8-92 - 500.

Details as to the facts of case
& the grounds on wh: it is

No. 227
27

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated. Bangalore, 19th July 1893.

Enclosure.

From

The Inspector-General of Police
in Mysore.

To

The Chief Secretary to the Government
of Mysore.

SIR,

I have the honor to recommend that Government may be pleased to order the Government Advocate to move for a reconsideration in appeal before the Chief Court, of the order of acquittal passed by the Additional Sessions Judge of Nagar in what is known as the Nemmar murder case. The Sessions Judge has overlooked points brought out in the police investigation and has not give proper weight to other facts. The Government Advocate, after going through the papers and reading Memorandum prepared by the Prosecutor, thinks that an appeal might be preferred. I have request that early orders may

in the case so as to enable an appeal being preferred before the Appeal period expires. The judgment of acquittal was passed on the 13th March 1893.

I have the honor to be,

Sir,

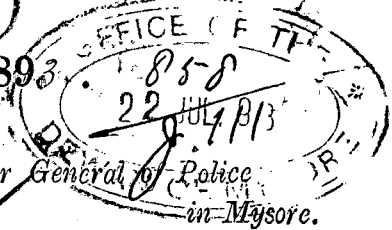
your most obedient servant,

Wm. Thackeray
Inspector-General
of Police.



(12)

1893



From *cb* The Inspector General of Police in Mysore.
To *qr* The Chief Secretary to the Government of Mysore.
Section _____
File No. *14*
Serial No. *9*

Dated *21* }
Despatched } *July 1893.*
Received }

General No. *260*
33
Enclosure. *one*

SUBJECT.

Forwarding the memo of the Assistant Government Advocate in the Nemmar murder case.

Inolbo
msu
22/7

Subd in continuation of to. papers relating to the case already Subd to the Chief Secretary.

On +
Ascertained when
where, with who
& put in personally
22-7-93. It
26/7

No.

260
33

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

(12)

Dated Bangalore 21st July 1893.

Enclosure. *One*

From

The Inspector General of Police
in Mysore,

To

The Chief Secretary to the
Government of Mysore.

SIR,

In continuation of this office letter No. 227/27 dated 19th July 1893; I have the honor to forward herewith Memo of the Assistant Government Advocate since obtained from the office of the Government Advocate, expressing an opinion in favor of the re-trial of the Nammur murder case.

2. The other heavy files of records including the judgment are in the office of the Government Advocate and if required, I beg that they may be obtained from that office.—

I have the honor to be,
Sir,

Your most Obedient Servant

M. S. Narayana Rao

Inspector General
of Police.

[Signature]

Memo

12/10

The Sess. Judge finds:-

A. That there is a strong suspicion
agst the prisoners (para 69)

B. That the 4th Secd is a man
of great influence & that naturally
no evidence could reasonably
be expected from persons who
continue to be his friends &
under obligations to him

(para 69)
after his discharge from the jail
C. That the 4th Secd files suits
in the Sess. Court applications
agst nearly 100 persons including
Sesha Bhatia one of the
prime movers in this case
and nearly all the important
witnesses in this case. These
people thus goaded to dispropor-
tion have now assumed the
latitude decidedly hostile
to the 4th Secd. But for



this fact I don't think that
the Acc persons would have been
placed before the Court for trial
on a charge of murder.

D. It was no doubt probable,
for him (1st Acc) to have committed
the murder but too gr for
consideration is not one of
probability but he actually
committed the crime (para 64)

E. It is true that there are
some suspicious entries &
erasures in the Ruth Wood
Accounts. These do not
however warrant the Court
in holding that the serious
charge of murder has been
substantiated aft the 4th &
5th Acc. There was an
suspicion aft them & they
were

they were anxious to avert
it & to clear themselves.
The 5th Seed & his brother
spent some money for that
purpose. For fear of such
conduct being construed
as evidence of their guilt;
they seem afterwards
to have tampered with
the accounts to some extent.
(para 61).

F. There can be no doubt
that Krishna Row died of
a gun shot wound (para 10).
G. The point for determination is
whether all or any of the Seed
persons were concerned in ^{the} murder
of Krishna Row. If ~~that~~ ^{there} is
credible & satisfactory evidence
upon this point, the Court
must certainly act upon it
notwithstanding the doubt.

8

and uncertainty which beset
the minor points already
discussed & decided against
the prosecution (para 16).

H. I. cannot seriously be
denied that the 2^d & 4th Acts
were not the only enemies
of the deco Krishna Rao.
It is true that the 4th Act
is a man of some influence
& that he was long smothering
under the trouble & annoyance
of which Krishna Rao was
incessantly giving him by
getting up cases off him. It
is unnecessary to give a list
of those cases. It is sufficient
to say that they were not
a few in no & that in one
of them the 4th Act was
sentenced to 2 yrs of
impr in Octr 89 while

in another he was removed
from Shenyang to Chukmangul
in prison dress. It is also
clear that the 4th Acid attempts
at retaliation where nearly
all of them were unsuccessful.
The relation between the Acid
& the 4th Acid were thus such
that, if there were sufficient
reliable evd. as regards
the evd; I sh^d consider the
motive on the part of the
4th Acid abundantly establish-
ed. The same observation
applies to 2nd Acid who had
suffered much persecution
from the Acid. The 3rd Acid
is the servant of the 4th Acid.
In his case that relation-
ship may reasonably be
accepted

accepted as an adequate motive.
The 5th Acad is the son of the
4th Acad & was naturally
actuated by the same motive
as his father. The 1st Acad
is a Constable on a SpL
duty. In his case the
motive alleged was a
reward of 1000 Rs promised
to be given by the 4th Acad.
I may take it that that
was a sufficient motive.
(para 17).

2. Such then is the story
of the actual murder. That
there is some substratum
of truth in it & I am quite
prepared to believe. (para 28)

2. The Judge does not believe the evid. for the prosecution from the folly among other grounds. —

1. That the wifes have deposed differently before the Police.

(paras 27, 30, 41, 48, 52, 55
56 & 57)

2. That the wifes for the prosn have become enemies of the H^d Accd (paras ~~6 & 7~~ 67)

3. That other enemies of the Accd might have committed the murders (para 18)

4. That it is improbable that murders w^d have been committed at the time & place alleged by the prosn (Para 24)

5. That the theory of the prosn regarding the gun used in committing murders is false (paras 11, 616).

Q. mds.

The Judge holds the Corpus delicti
& motive proved. The witnesses as
the Judge found were unwilling
to depose agt the Seed as long as
they continued to be the friends of
the 4th Seed. It is only when they
were goaded to desperation as the
Judge remarks, they have come
out with the truth. This accounts
for the different statements made
by witnesses at different times.
The wifes were unwilling to state
anything agt the Seed in the
beginning & were trying to avert
suspicious agt others & as soon
as they ceased to be friends
of the Seed they have given
out true facts. The Judge
has not drawn the right
conclusions on the fact of the
accounts of the 4th Seed having
been

Compared with. The conduct of
the Accd in this instance strongly
supports the case for the prosn.
The Judge has dwelt upon
minor points & has found agt
the prosn but as he himself
admits that his finding on
them does not affect the main
Case if true.

Each person to commit
an offence chooses his own time
& place in the impulse of his
action he uses no discretion
& so there can be no improb-
ability in the time & place of
murder. Besides the time
& place of murder are not
shown to be false.

The Judge states

that there are other enemies of the
Accused but it has not been
shown that those other enemies
are actuated by the same
motive & to the same extent
as the H^o Accused is in
this case.

From the facts proved &
found by the Judge the case
has been made out agt the
Acc^d & from what has been
stated in the above there
are sufficient grounds for
preparing an appeal agt
the Judgt of acquittal.

Samuel
W. Smith

(13)

et
24 9/10
b

Section	10
No.	10
PLIES	10

Inspector General
of Police, in Mysore

Df. July 1893.

Sir,

With reference to your
letter N^o 227 dated 19
27
instant, soliciting sanc-
- tion for preferring an
appeal against the
order of acquittal passed
by the Add^l Sessions
Judge, Nagar Division
in the Nemmar murder
case, I am directed to
observe that the details,
as to the facts of the
said case and the
grounds on which it
is sought to move the
Govt^y to prefer an
appeal have not been
stated, I am therefore

to request that you
will be good enough
to furnish the above
particulars and also
to submit the "Memo-
randum prepared
by the Public Prose-
cutor" alluded to
in your letter under
advertisance.

I have &c

C. Seely.

Wm. W. W. W.
26/7/93

Let me see all
the record in the Newman
Murder Case - The
proceedings & the judge's
were published in the
Daily Post - I will like
to see this printed
matter also -

Early 27/6/7

Urgent - Covering sheet not found

Section	15
File No.	24-92
Serial No.	11
Section	
File No.	
Serial No.	
Section	

Saved by

The appeal against the order of acquittal in the Nemaur Murder case, recommended by the District Magistrate of Kadur, is pending the orders of Govt. The case is of a complicated nature and the records to be gone through are voluminous. The case was conducted before the Addl. Sessions Judge by Mr. Sundaram Iyer, Public Prosecutor, Nagar Dr. and he has also drawn up an exhaustive memo explaining the grounds on which an appeal should be preferred. As he is fully acquainted with the facts of this case, I would venture to suggest

that he might be ordered to
come down to Bangalore, both
to lay the facts of the case
before the Govt. and, in the
event of the Govt. being pleased
to sanction the appeal, to
conduct the appeal before the
Chief Court. If this proposal
is approved of, the District
Magistrate of Shemoga might
be asked to make other arrangements
for carrying on the Public
Prosecutor's duties during
Mr. Sundaram's absence
from Shemoga.

Bangalore
15th Aug 1893.

1207
Madhavabhai
Inspector Genl of Police

(16)

Read:—

Section	CP
File No	24-911
Serial No	11

Memorandum dated

15th August 1893 from
the Inspector General of Police
in Mysore.

Order No. $\frac{3113-4}{J.F.105-92}$

1369

The question of preferring
an appeal against the ~~sen-~~
tence of acquittal passed
by the Additional Sessions
Judge of Nagar Division, in
what is known as the Kumar
murder case, is under the
consideration of Government.
The case is of a complicated
nature and the records to be
gone through are voluminous
The

The case for the prosecution
was conducted before the
Additional Sessions Judge by
Dr^r Sundaram Iyer, Public
Prosecutor, Nagar Division. —

As he is fully acquainted
with the facts of the case,
it is deemed advisable
that he should come into
Bangalore both to explain the
case to Government and in
the event of an appeal being
sanctioned, to conduct the
appeal before the Chief
Court. The District Magistrate
of Shimoga is accordingly
requested to direct Dr^r
Sundaram Iyer to report
himself

himself to the Chief
Secretary forthwith.

2. During the absence of
Mr Sundram Iyer from Shemofa,
an Acting Public Prosecutor
will be appointed for Nagas.
The District Magistrate of
Shemofa is requested to sub-
mit his proposals in this
matter.

1578

~~1578~~ Chief Secretary.

To, The Inspector General of Police.
District Magte, Shemofa.

~~Registrar, Chief Court.~~

17

(General Serial No. 31) 2385

Section	From
File No	24
Serial No	13

1893 292
 District
 Mysore
 Shimoga

To

The Chief Secretary to the Dewan of Mysore.

Dated 19th August 193

Despatched

Received

Enclosures No. —

General No. 187
 No. 158

By in self
 Mr. Sundaram
 for Mr. Sundaram
 immediately to
 that the act
 after is in
 m/s

MS

23/8/95

With reference to Govt. Pro
 No. 3113-4 of the 15th Dist
 83.105-92
 States that Mr. Sundaram
 Public Prosecutor of Nagar
 has been directed to report
 himself to the Chief Secy
 and recommends Mr. H.
 Rama Rao, advocate, to
 act as Public Prosecu

J.

Submitted

for Mr. Sundaram
 21/8
 22/8

Office of the District Magistrate
Shimoga

19th August 1893.

(17)

No. $\frac{187}{158}$

To.

The Chief Secretary to the
Dewan of Mysore.

Sir

In reply to Government Proceedings
No. $\frac{3113-4}{93105-92}$ of the 15th Instant, I
have the honor to report that
I have already directed Mr. Sundram
Iyer to report himself to the Chief
Secretary accordingly -

2. Hitherto I have been appointing
in anticipation of sanction of Government
an acting Public Prosecutor on occasions
of the Shimoga Sessions on the ground
of economy. As I am now desired
to submit my proposals for an
acting Public Prosecutor for Nagar,
I beg to propose that Mr. H. Rama
Row may be appointed to act

during the absence of Mr. Sundram
Iyer from Shunoga -

3. Mr. Rama Row is one of the
Senior Advocates in Shunoga. He and
another learned Advocate had spoken
to me on the subject of my selection
of Mr. Setu Row repeatedly, and Mr.
Rama Row further requested me to
give him the present chance, which
may be given him.

4. I have no reason whatever
against the non-selection of Mr. Setu
Row on this occasion. But for the
facts stated above, I would have
selected him now too.

I have the honor to be,
Sir,

Your most obedient servant

Abdul Wahab, Khan Bahadur
District Magistrate
Shunoga

BPH

J. 402

No

3617

(18)

J. 7. 105-92

Today

Section.	C/P 792
File No.	24
Serial No.	14

The District Magistrate
of Shimoga

Sir

With reference to your
letter No $\frac{187}{158}$ dated 19th

Instant, recommending
the appointment of Mr. H.
Ramanathan advocate as Public
Prosecutor during the absence
of Mr. Sundaram Iyer on
other duty at Bangalore,
I am directed to state that
Mr. Sundaram Iyer will
return immediately to
Shimoga and that the
acting appointment proposed
is not necessary.

In your letter
23/8

I have one
Att. 23/8
Chief Secretary

recd. &
retd. 23/8

(20)

Section 24 92
File No 15
Serial No 15
Head -

(1) Letter No 27/27 dated 19th July 1893 from the Inspector Genl of Police in Mysore recommending the presentation of an appeal before the Chief Court against the order of acquittal passed by the Additional Sessions Judge of Nagar in the Kemmar Murder Case (Madur Sessions Case No 1 of 1893).

(2) Memorandum by the Asst^t Secy Advocate received with letter No 260/33 dated 21st July 1893 from the Insp^t Genl of Police.

(3) Memorandum of the Insp^t Genl of Police dated 15th August 1893.

Order No 3678-80 of 23/8/93.
J. F. 105-92 24

The case is an important one. A great mass of evidence

J. 406

has been adduced for the prosecution and in the opinion of both the District Magistrate and the Assistant Govt Advocate, there has apparently been a miscarriage of justice, and ~~in the interests of public justice~~ it seems, therefore, desirable that an appeal should be preferred against the order of acquittal. The Assistant Govt Advocate will be authorized accordingly to arrange for filing an appeal forthwith under Section 417 Cr. P. Code in the Chief Court of Mysore.

~~23~~ 23/5/93
Chief Secretary

AM 23/5/93

- To the Asst. Govt Advocate
with the records of the case
" ~~Asst. Secy of Police~~
of Mr. Kadam St. —
" Inspect of Police /
up

90/100 ^{dist of records sent up}
 3678-80 dated 23-8-93. to the A.C. Secy.
 Criminal case no: 2 of 1890 on the ^{27.195} ~~file~~ of the
 Dist Magistrate ~~Kadur~~

Sessions case no: 3 of 89 - do Sessions Judge
 do no: 117 of 92 - do. of Yedahalli ^{Kadur} ~~Magistrate~~
 do no: 67 of 92 - do - do and
 on book marked as exhibit ^B ~~13~~ - do -
 in case 158 of 90 - do - do

do no: 207 of 1890 - do - do
 Dist no: 10 of 1889 - do - Dist Judge Kadur

no: 1 of 1893 - Kadur Sessions case -

Two Police Registers for 1890

Station diaries $\frac{146}{1}$ $\frac{146}{2}$ $\frac{146}{3}$ $\frac{146}{4}$ $\frac{146}{5}$
 $\frac{146}{6}$ $\frac{146}{7}$ $\frac{146}{8}$ $\frac{147}{2}$ $\frac{147}{3}$ $\frac{147}{4}$ $\frac{147}{5}$
 $\frac{147}{6}$ $\frac{148}{1-2}$ $\frac{154}{1}$ $\frac{155}{1-2}$ $\frac{156}{1}$ $\frac{161}{1-2}$

1 Day book containing entry marked as exhibit ^B ~~13~~ $\frac{47}{47}$ in
 Sessions ~~Kadur~~ case

1 do do do $\frac{B}{43}$ $\frac{B}{40}$ $\frac{B}{34}$ $\frac{B}{35}$ and $\frac{B}{46}$

1 Book Police Register no: 8 marked as exhibit ^B ~~11~~ - do

1 do do do do do $\frac{B}{10}$ - do

1 Register of convicts released from jail marked as exhibit ^A ~~48~~ $\frac{97}{97}$

1 Nominal roll of convicts containing entry marked as
 exhibit ^A ~~48~~ $\frac{10}{10}$

1 Register of articles of Hariharpur Station marked $\frac{A}{21}$ $\frac{A}{22}$ $\frac{A}{23}$

1 do do do do do do as exhibit ^A ~~34~~

1 Register of articles in the Yedahalli Head Station house
 1 To Register book for 91-92 containing exhibit no: ^{as Expt A} A 30
 as no: 118 of 92 on the file of the Yedahalli Munsiff's court
 criminal case no: 12 of 1890 by of the Distt Magistrate Kadur
 as no: 112 of 92 on the file of the Yedahalli Munsiff's court
 criminal case no: 10 of 89 on the file of the Kadur Distt Magistrate
 by 41 of 89 — by —
 by 17 of 89 by Sessions Judge Chagani
 Cril. case no 25 of 91 by Kadur Distt Magistrate
 as 838 of 91 by Chennaya Munsiff's Ct
 Cril case no: 8 of 90 — by Kadur Distt Magistrate
 by 9 of 90 — by —
 by 10 of 90 — by —
 by 16 of 91 — by —
 by 26 of 91 — by —
 by 27 of 91 — by —
 as no: 111 of 92 — by Yedahalli Munsiff's Ct
 Cril 79 of 92 — by J. A. Munsiff Kadur
 as no: 72 of 92 — by Yedahalli Munsiff's Ct

5 Books exhibited only in the Committing
Magistrate's Court.

1. To Register - Police Office Kadurth
Tarkere Taluk. from April 14 to 17th October (1890)
2. To Register of Gedahalli Sub Taluk.
from 1st January to Decr 1890.
3. Register recording orders &c.
of Mudgere Taluk. from 22-9-89 (Exhibit marked "1")
4. Gedahalli Police Office from Register
from January 1890 to Decr 1890. (Exhibit A (C))
5. To Register of Chikmagalur Taluk.
Sept 15th to December 1890.

-
6. $\frac{B}{38}$ Daily Cash Book (2 Books) 21090
of Kuthlupud
Krishna Bhatta. (2B) 800

7. Store accounts Police Dep^y Kadurth.
(1889.)

-
8. Memo by Sundarun Dyer - Public Prosecutor
Kagardu Book no I Book no II (2 Books)
 9. Judgment in the Kemmar Murder Case.
Also printed newspaper copy of original
manuscript.

10.

A. 23-24 Yadavalli Municipality Court
(one Krishna File) Exts 16 and 17. Original ²⁰⁷ 1890

11

Diary of Offr Police Asst Commr Kadur Dh
for week ending ^{Sat} 26th June 91

Do _____ 27 June 91
Do _____ 4th July 91
Do _____ 11th July 91
Do _____ 18th do -
Do _____ 25th do -

12

Nos I to XII Memo of Enquiry by Mr Dunning.

Diary of Offr Police Asst Commr Kadur Dh
for week ending Sat 18th Sep: 91

~~Do~~
Diary of investigation held on the 15th, 16th, 17th
20th & 21st Sep 1891 by Mr Dunning.

Special diary in Kemmar murder
Case D/26th Sep 1891 by Mr Dunning.

13.

{ Anglo Indian Pocket Diary Book for 1891
Numbered 1413
Files numbered in red pencil from 132 to 145 -
pages numbered in
blue pencil from
125-4 to 1412.

14.

Files from 94 to 130 marked in red pencil
 pages from 693 to 725-5 (Confidential)

15-

Diary of H. Setharamia Amildar on Special
 Duty for week ending 30/7/92 pages from
 651 to 692.

1 Telegram from Sringeri Amildar to H.H. Sparkes,
 2/8/8/92.

Letter from H. Setharamia to L. Krishnakow,
 Police #2 As Inspector, Tarikere. 2/29/5/92
 pages from 645 to 647.

Diary of the Asst Supt of Police, Kadur #2
 for week ending Sat 9/4/92 pages 629 to 636
 do ————— 16/4/92
 pages from 637 to 644.

16

General diary of the #2 Quarter Inspector
 Kadur #2 from pages 561 to 628.
 File from page 431 to 560.
 Communications.

17

List of Police diaries pages 1 to 21 (English)
 one paper in Kannarese.

18.

Koppa Taluk Amildar Station Diary
 from pages 1 to 73.

19. Memo of the Police Inspector Krishnakumar.
 Paps from 74 to 110
 Memo + En: from pages 368 to 391.
 Confidential diary of Asst. Inspector
 Kadur ^{to} D/19/10/91 ^{pages} from 392 to 420.

Committal records in the

Kemmar Murder Case -

1892-93.

20. Kadur Sessions Case no 1 of 1893
 1. Cr: Case no 37 of 1892. (5 files)
 2. Exhibits files for Prosecution
 Also records referred to by the Magistrate
 (60 & 61 marked in red pencil)
 3. Police Reports, Processes
 & Enq & Ver: Mis: papers (66 do —)
 4. List of Prosecution witnesses in the
 Court (numbered $\frac{67}{1-114}$)
 5. List of Defence witnesses
 (numbered $\frac{68}{1-59}$)
5-

12
 6/10/93

1893. 4133.
25 SEP. 9
9634 (21)

From
The Inspector General of Police
in Mysore.

Section 24-9
File No 16
Serial No 16

The Chief Secretary to the
Government of Mysore.

Dated 23
Despatched } September 1893.
Received }

General No. 1050
119
Enclosure.

11 Separate
packet

SUBJECT.

Forwarding a printed copy
of the memo prepared by
the public prosecutor, Ka-
gar Division, in the
Nemmar Murder case.

1. Place in the file - Is there
a printed copy of the report?
2. Also in the file?

1. attended to
2. Please see accomp. Cutting
from Newspapers. Over

It seen - J. H. 27.9
Mysore Govt. C. Press, Bangalore. - 22-8-93 - 500.

27/9

No. 1050
119

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated Bangalore 23rd September 1893.

Enclosure.

1 (Separate packet)

From

*The Inspector General of Police,
in Mysore.*

 T_0

The Chief Secretary to the
Government of Mysore.

SIR,

With reference to this office No. $\frac{260}{33}$ dated 21st July, 1893,

I have the honor to forward herewith for information and record a printed copy of the memo prepared by the Public Prosecutor, Nagar Division, in the Nammur murder case. —

I have the honor to be

Yr

Your Most Obedient Servant.

M. J.
Madhavabhai
Inspector General
of Police.

Vice Serial
no 2 for
printed copy
of memo.

sk

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5	Discovery of cartridge &c, discussed.	41 to 55
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9	Do Maler Subba Do (10th Do.)	112 to 114
10	Do Aigala Venkatramanaya	114 to 117
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MEMO.

FACTS OF THE CASE.

As the Judge has not set forth all the facts of the case in his judgment, I have taken the trouble of stating them here so as to give a correct idea of the case.

The facts of the case are :—

1. Handalmané is a hamlet attached to the village of Nemmar. One Krishna Rao was an influential landholder and money-lender, residing in the only house situate in that hamlet. The 4th accused Singabhatt is a resident of Kutugod, which is about 3 or 4 miles from Handalmané. The 5th accused is his 2nd son, while the 3rd accused is his servant. The 2nd accused Narasiya is a Suttige-kula of the 4th accused and lives at Sasimane, which is only, two furlongs distant from Handalmane. The 1st accused was a Police Constable employed in the Koppa Taluk. He was on intimate terms with the 4th accused and was in the habit of paying him occasional visits.

2. Krishna Rao was at the head of one faction, which consisted of Chinivar Dharaniya Setty, Hedse Seetharama Shastri, Ber Rodgi Manjappa and P. Krishna Shastri and others, while the other faction consisting of Kavadi Venkata Bhatta, Bellandur Seshabhatta, Heggade Tota Sivaiya (approver), 2nd accused Narasiya and Vagale Venkatachalliya, was headed by 4th accused, Singabhatta. In connection with the estate of a minor related to the 4th accused as well as to Nemmar Krishna Rao, bitter enmity arose between these two influential men some 10 or 14 years ago. There were several subsequent legal proceedings, Civil and Criminal, between these two persons as well as between their friends, dependants and partizans. In October 1889, the 4th ac-

cused was sentenced to rigorous imprisonment for two years in a case of House-breaking and theft, in the prosecution of which, deceased Krishna Rao admittedly took great interest. In order to undergo this sentence, the 4th accused was sent to Shimoga Jail on the 26th October 1889. While in Chickmagalur lock-up as an under-trial prisoner in this case, the 4th accused plotted to bring Krishna Rao into trouble by getting up a case of sandalwood theft against the latter, through the instrumentality of H. Sivaiya (approver), 2nd accused Narasaiya and 1st accused Ramanna. This plan did not succeed.

3. About the same time as the said case of House-breaking and theft was under Police enquiry, a case of dacoity was got up by 4th accused against N. Krishna Rao. In this case, 4th accused and several of his dependants gave evidence against N. Krishna Rao. This case went up to the Sessions Court, where it ended in the acquittal of Krishna Rao, shortly before Singabhatta was convicted. N. Krishna Rao obtained sanction to prosecute the 4th accused and his friends for the offences of preferring a false complaint and for giving false evidence in that case. On the 10th January 1890, N. Krishna Rao preferred a complaint under Section 193 and 211, Indian Penal Code, to the District Magistrate of Kadur against 4th accused and his dependants.

4. In pursuance of a warrant issued by the District Magistrate of Kadur in February 1890, the 4th accused was removed from the Shimoga Jail to Chickmagalur lock-up in prison dress in order to stand his trial upon the charge thus preferred against him by Krishna Rao. Singabhatta arrived in the Chickmagalur lock-up on the 17th February 1890.

5. The trial of this case commenced on 4th March 1890, the accused were discharged on the 8th March 1890 and the written judgment was delivered on the

10th idem. On this occasion, the 4th accused remained in the Chickmagalur lock-up up to the 22nd March 1890. Both before and during the trial of this case as well as in the house-breaking and theft case against the 4th accused, his Gumasta Honne Devasthan Nagappa (33rd witness for prosecution) came to Chickmagalur and took great interest in his favor. Nagappa was 4th accused's great confidant. In February 1890, Nagappa accompanied the 4th accused Singabhatt from Shimoga and was put up at a place called Bol-rameshwar temple in Chickmagalur, from where he used to take food, &c., to his master, the 4th accused, in the lock-up. The lock-up servants allowed him free access through the influence of Singabhatta.

About 2 or 3 days after he came to Chickmagalur lock-up, the 4th accused, smarting under the disgrace brought on him by his enemy Nemmar Krishna Rao, planned to bring a charge of forgery against Krishna Rao through the 2nd accused and with that view wrote in his own hand Exhibit A 46, in which he mentioned the particulars to be embodied in the complaint to be preferred by the 2nd accused against N. Krishna Rao for having forged 2nd accused's signature in a petition which the former had sent up against 4th accused charging the latter with mis-management of the affairs of the Hariharpur Matt. The 4th accused mentioned the names of witnesses in Exhibit A 46, who were to be summoned in support of that charge. He also mentioned therein that Approver Sivaiya and H. Nagappa (33rd witness) should be summoned as witnesses to prove that on the date of the alleged forged petition, the 2nd accused was at Yedehalli. The 4th accused handed Exhibit A 46 to his Gumastha H. Nagappa and told him to send for 2nd accused Narasiya and H. Sivaiya (approver) to receive instructions in the matter of preferring the said complaint of forgery against Krishna Rao. Nagappa accordingly sent word to them to come to Chickmagalur. Before they could

arrive, the 4th accused changed his mind and conceived a graver plot against the life of Krishna Rao.

6. About this time, 1st accused, who was long known to Kutugod family, was in the habit of frequenting the lodgings of 4th accused's Gumasta, Nagappa, and taking meals there. On a certain day, before the arrival of the 2nd accused and approver Sivaiya, when Naggappa happened to go to the lock-up as usual, the 4th accused told him to give up the attempt first thought of and bring the 1st accused to the lock-up. Accordingly Nagappa took the 1st accused, and with the connivance of the lock-up guard both gained admission into the lock-up. All the three went into a room and the following conversation passed between the 1st and 4th accused.

"The 4th accused shed tears and said to the 1st accused thus :—All Krishna Rao's cases against me have succeeded, while mine have failed. He has given me much trouble. He has caused me to be brought from one jail to another. I am not likely to survive the trouble." The 1st accused comforted him by offering to do what lay in his power. The 4th accused said "I will tell you what to do you must do it. Don't tell anybody?" The 1st accused asked what it was that he should do. The 4th accused said :—

"Somehow or other you must despatch (ಪ್ರಾಣಹಾನಿ) Krishna Rao before my discharge from jail. For this I swear by Manjanatha Devaroo of Dharmastala that I will pay you Rupees one thousand." He put his palm on that of the 1st accused and swore to this effect. The 1st accused likewise swore on the same God that before the release of the 4th accused, he would despatch Krishna Rao. On the 1st accused asking for a revolver with five chambers, the 4th accused asked Nagappa to buy one for the 1st accused. Nagappa first consented, but subsequently changed his mind

and said to 1st accused that he would not buy one for him as he supposed the 4th accused did not earnestly mean it. Two or three days after, 2nd accused Narasaiya came to Chickmaglur and had an interview with the 4th accused in the lock-up and went away. Then came Sivaia (approver), who also had an interview with the 4th accused regarding the plot of killing Krishna Rao and went away. Then Kademane Seshabhatta and the 5th accused came to Chickmaglur from Bangalore after the appeal in the house-breaking and theft case was disposed of by the Chief Court. The next day or the day following Aigala Venkatramanaiya, another Gumasta of the 4th accused, also came from Bangalore to Chickmaglur. These persons had interviews with 4th accused in the lock-up. The first two left for Kutugode and the 1st accused also went with them.

7. Sometime after this, there was an interview between H. Sivaia (approver) and 1st accused in a hotel at Koppa regarding the plot to murder the deceased.

8. Some three or four months afterwards *i. e.* in August 1890, the 1st accused went to Shimoga in company with the 5th accused and Gumasta Aigala Venkataramanaiya under the pretext of arresting one Ganappaiya, a co-accused of 4th accused in the house-breaking and theft case, who had absconded. The 1st accused remained at Shimoga from 15th to 21st August 1890, during which time he dined in 5th accused's lodging 3 or 4 days.

9. About this time, the 5th accused lent a sum of Rs. 100 without interest to the Jail-writer there and created facilities in the Jail to pay secret visits to 4th accused. The co-operation of one or two Jail peons was also secured to facilitate unauthorized communications and clandestine visits between 4th accused and his Gumastas and relations at Shimoga. On 1st accused's return to Koppa on 22nd

August 1890, he succeeded in obtaining an order from the Inspector of Koppa, allowing him to go on special duty in connection with another case of murder against the 4th accused, pending still on the Police file, as well as the Sollebail murder case. Under cover of this order dated 7th September 1890, he visited Kutugod, Sasimané, Handalmané, Heggadotota and other places about the end of September and early part of October 1890. He again visited Kutugod on or about the 18th October 1890. Just about this time 5th accused who had gone to Shimoga returned to Kutugod. On the following day, the 2nd accused and approver Sivaiya were sent for by the 5th accused, who wrote Exhibit B to Sivaiya on that occasion asking him to come. That night they all consulted together, and arming themselves with a double-barrelled gun, (Exhibit C) proceeded to 2nd accused Narasiya's house, where they remained the rest of that night and the whole of the next day. On the night of the 20th October 1890, they proceeded to the house of N. Krishna Rao and waited for a short time in the hope that Krishna Rao might come out. As Krishna Rao did not come out that night the attempt fell through, and the party had to leave Krishna Rao's house disappointed. Afterwards the 5th accused and approver Sivaiya, went to Shimoga and saw 4th accused in Jail; when, 4th accused after talking with 5th accused, asked Sivaiya to look sharp and told him that 1st accused would visit Kutugod shortly. On this occasion, 2nd accused Narasaiya and Bellandur Ramoo (another accused, who has now absconded) were at Shimoga in the hotel of Rambhatta (16th witness for prosecution) and were consulting together to waylay Krishna Rao and break his limbs on his way to Shimoga, where he was shortly expected in connection with an appeal which Krishna Rao had caused to be preferred by Mr. Collins against 2nd accused, Narasaiya. On this occasion, the 5th accused and the approver went to one

Gergal Chennabasaiya's house at Shimoga when 5th accused paid Rs. 80 to the said Chennabasaiya in part payment of the amount previously stipulated for the purpose of doing some injury to Krishna Rao when he next visited Shimoga. The 2nd accused afterwards got a letter from Vagale Venkatachellaya to Khandari Mahomed Sha Khan to waylay Krishna Rao on the Woomblybile Road, between Shimoga and Yedehalli. Both these attempts, however, failed.

10. On 24th January 1891, the 1st accused, who was in the Koppa Head Station, applied for a transfer to some other station. But he was transferred to Kadur Taluk. The order of transfer was communicated to him on 6th February 1891 but instead of going there, he applied for 6 months leave on 11th February 1891. A month's leave was granted. On 12th March 1891, he came to the Head Quarters (Chickmaglur) and applied for the cancellation of his transfer to Kadur; whereupon, his transfer to Chickmaglur Taluk was ordered. The Amildar of the last mentioned Taluk would not have him and on 31st March 1891, he again applied for 6 months' leave. Leave was granted to him but he did not avail himself of it. But he remained in the Head Quarter Office till 11th April 1891, when he was given a passport as he wished to go to Kadur. He did not go there. He renewed his application for leave and was granted two months' leave on 29th April 1891. On the 31st May 1891 he left Chickmaglur and reached Balehonnur on the 1st June 1891. The same evening he went on to Sollebail and on the following day at 11 A. M., he reached Kutugod. On the 3rd June 1891, a double-barrelled gun (Exhibit C) which had been previously given out for repairs was got back by the 5th accused. The 2nd accused also was there that day. The efficiency of the gun was tested that night at Kutugod by 1st and 3rd accused. The next morning before

day break, the 1st, 2nd and 3rd accused disappeared with the gun. Bellandur Ramoo, who has now absconded, was seen at Kutugod that morning (4th June 1891) but was not seen at Kutugod again till that evening. On the afternoon of the 4th June 1891 2nd accused came to Heggade tota and called approver Sivaiya to join the rest of the party, who were at Sasi-mane in the 2nd accused's house that day. The approver could not go that day as his child was not well but promised to join them the following evening. On the 5th June 1891 at about noon the 2nd accused went near the house of the deceased and enquired if the deceased was at home. In the same afternoon, Vagale Venkatachallia (in whose house at Sringeri the 2nd accused and approver Sivaiya used to meet together for consultation about killing Krishna Rao for some days past), came to the approver's house with one Yedadanti Lachaiya. There was also a Pandit from Hindupur who was attending on Sivaiya's child. Leaving them at home and telling Vagale Venkatachallaiya that he was going to 2nd accused's house about N. Krishna Rao's business, Sivaiya went to 2nd accused's house that evening. There he saw the 1st, 2nd and 3rd accused and Bellandur Ramoo. After Sivaiya (approver) went to the 2nd accused's house, the double barrelled gun which had been brought from Kutugod was loaded by 1st accused with one of the 7 cartridges which the 1st accused had in his possession. The party (excepting 2nd accused who excused himself that day) then went to the deceased's house at Handalmané, the 1st accused carrying the loaded gun.

11. On that day there was a feast called "Durgi Samaradhane" in the village of Nemmar. Several of the members of the Handalmane house including N. Krishna Rao, attended that feast. All of them returned home in the evening including N. Krishna Rao.

12. The four murderers, 1st and 3rd

accused, Bellandur Ramoo and approver. Sivaya, who went near Krishna Rao's house about 3½ or 4 "Ghaliges" after nightfall, took their stand on a mound near the trench behind the Kottige and listened for noise; they did not hear much noise. They retreated to the window on the southern wall of the room to the west of the Kottige and looked through it. A lamp was burning on the threshold of the southern room. There was also a lamp burning inside the northern room. Parichark Puttannaya was walking to and fro on the pial. N. Krishna Rao came out and sat down close to the lamp-post, which was at the threshold of the southern door; he had a book in his hand. He began to read it. A boy came and took his seat near Krishna Rao; he too held a book in his hand. The door in the southern wall of the Kottige lay open. By this time Puttannaya went into the northern room, where Dhoresawmy Iyengar was seated reading a book. The murderers got into the Kottige through the side door. The 1st accused stood at the edge of the Kottige near the 2nd post from the southern room and fired the fatal shot. The lamp on the threshold went out. The place became dark. All the murderers turned back to go. 1st accused stumbled and fell down. Approver helped him up. All went out through the same door through which they had entered. Then assuring themselves that the shot had the desired effect, they all ran to 2nd accused's house and saw him seated on the pial of the house. There the 1st accused found that the cartridges in his pocket were short by one. He handed over the remaining 5 cartridges and some caps to the 2nd accused, asking him to bury them somewhere in the garden. The 1st and 3rd accused as well as Bellandur Ramu then went away to Kutugod, while the approver Sivaya went to his own house perspiring very much and almost panting for breath. He sent away Vagale Venkatachellaya and Y. Lachaya from his house the same night.

13. The boy Krishnamachari who was

seated near the deceased, became paralyzed with fear. Taking a lamp from the northern room, Puttannaya hastened to the pial, where, to his horror, he found Krishna Rao lying dead with his head against the wall and with a severe wound on the left cheek.

Puttannaya raised an alarm and went into the house. Dhoresawmy Iyengar, who was in the northern room, came and found Krishna Rao dead. His brother, Krishnamachari, who was sitting terror-struck could hardly utter a word. He was removed aside by Dhoresawmy Iyengar. Phaniappa and other inmates of the house came out and saw the deceased. Information of the occurrence was forthwith sent to the Patel of Nemmar, who immediately came and sent news to the Sunkadammakki Police Station. A constable of that station arrived shortly after and sent off reports both to the Inspector of Koppa and to the Amildar, who was then at Hariharpur. The same night several people came to the house of the deceased on hearing the news, of whom Venkatachella Bhatta was one.

14. On the following morning, that is, 6th June 1891, a Police cartridge was found lying on the floor of the Kottige and was picked up by the said Venkatachella Bhatta. An hour or two afterwards, a discharged flattened bullet was also picked up by one Sankara in the *angala* or court-yard. They were shewn to those present and were eventually secured by the deceased's nephew Gopalaya.

15. The Amildar, the Hospital Assistant and several other persons arrived at Handalmane between 3 and 4 P. M. of that day (6th June 1891). An inquest was held on the body and a Mahazar prepared. Krishnamachari was questioned by the Amildar, and he stated he had seen a black figure moving near the second pillar in the Kottige from where the report of the gun issued. The purport of this was also embodied in the Mahazar. After getting the Mahazar signed by some of the persons present, the Amildar

delivered it to the Hospital Assistant so as to enable him to add his own observations under it. The Hospital Assistant made a note and then returned the Mahazar to the Amildar, who thereupon recorded under it a *shara* that a Post-mortem should be held the next morning and a search made in the body for the fatal bullet. Gopalaya, Patel and others who in the confusion and terror, had almost forgotten about the cartridge and bullet which had been discovered that morning, just then recollected and had them produced before the Amildar who was then inspecting the Kottige. The Amildar then and there wrote a postscript below the Mahazar regarding the production of the cartridges and the bullet.

16. When the body was lifted up on the morning of the 7th June 1891, preparatory to its removal to the river-side for *Post-mortem*, a broken tooth and a few bits of cartridge paper were found lying under it. These were taken possession of by the Amildar, who at once noted the find of these articles under the same Mahazar.

17. The deceased's relations begged that the body be spared the disgrace of being touched and cut open by a non-Brahmin. The Hospital Assistant who is a Mussalman, acceded to their wishes and got the body cut by cook Puttannaya under his own direction and supervision. Below the collar-bone was found a piece of wooden plug belonging to a bullet, and the Hospital Assistant secured the same. The fatal bullet most probably, lodged in the spinal canal, which was not cut open and examined as stated by Hospital Assistant.

18. Then the Hospital Assistant handed over the body to the relatives of the deceased for being cremated. He was at that time of opinion that the bullet must have re-bounded after striking the spinal column and left the body by the same opening as that through which it had entered it. Subsequently however, he abandoned that opinion after consulting the Civil Surgeon and came to the conclusion

that the bullet must have got into the spinal canal and remained in it.

19. The Amildar investigated the case from the 6th to the 18th June, and then handed over charge of it to the Assistant Superintendent of Police. Beyond a strong suspicion against the 2nd accused and 4th accused's family, approver Sivaiya, Belandur Ramoo and Venkatachallaiya, of which, rumour reached the Amildar only on the 9th June 1891, he was able to obtain no reliable information sufficient to justify any definite action being taken. In the same Diary, mention was also made of a stray information that 1st accused was seen in the neighbourhood of Sringeri about that time.

20. The 1st-accused remained at Kutugod on 6th June 1891 and left it early on the morning of the 7th June 1891. He reached Balehonnur the same evening going *via* Sollebail, travelling a distance of 24 miles. On the 8th he travelled a further distance of 22 miles and reached Mallaisangudda Estate in the afternoon of the same day. He was the first to give the news of N. Krishna Rao's death there. He was seen in possession of a large sum of money, which he tried to exchange for currency notes there, but failed. There was a talk there in the presence of 1st accused that a Police cartridge had been discovered near the scene of occurrence. Thereupon, the 1st accused, without telling any body, and leaving his *Maguta* behind, suddenly disappeared early next morning from the Estate.

21 The Assistant Superintendent of Police took up the investigation and continued it till 27th July 1891. The discovery of a Police cartridge near the scene of occurrence naturally led to further enquiry in the matter of the loss of a gun, some cartridges and caps from the Balehonnur Station, which had occurred 4 months previously and regarding which, Constable Narasinga Rao of that Station

had made a false accusation against his immediate superior, the Duffedar. The record relating to the loss of those articles shewed that on 8th March 1891, the Duffedar of the Balehonnur Station had left for Chikmaglur on duty. Constable NarsingaRao (who was also the Station writer) remained in charge of that Station from 8th to 12th March 1891. There were two guns, 20 cartridges and 20 caps in that Station when the Duffedar left on the 8th March 1891. The Jamedar and the Yedehalli Deputy Amildar who had come to the station on the morning of the 8th March 1891, had seen the two guns in that station. After the Daffedar left for Chikmaglur and before his return on the evening of the 12th March 1891, Constable Narasinga Rao had recorded in the Diaries of the 8th, 9th, 10th and 11th, that the Daffedar had asked him to recover one of the guns of the station from his landlord Yakub Alli, to whom it had been lent three days previously, but that the latter had failed to give it up though often demanded. On being questioned by the Daffedar on the evening of the 12th idem, NarasingaRao told him the same story. The Daffedar reported to the Jamedar, who had come there with the Daffedar the same evening from Chikmaglur, that NarsingaRao had wilfully caused the disappearance of one of the guns and that the story told by him was absolutely false. Immediately after reporting the loss of the gun, the Daffedar examined the cartridges and caps in the station and found that 13 cartridges and 16 caps were missing. He reported this fact also to the Jamedar. The Jamedar held an enquiry and submitted a report which led to the Daffedar and NarsingaRao being directed to pay each a moiety of the value of the missing articles.

22 When the Police Assistant Superintendent took up the investigation on the 18th June 1891, he sent for Constable NarsingaRao and again questioned him

on the subject and succeeded in eliciting the truth from him. It was then made clear that on the evening of the 8th March 1891, 1st accused had visited the Balehonnur Station on his way to Chikmaglur from Koppa and taken lodgings with Constable Narsinga Rao that night. On the latter representing how the Daffedar was constantly reporting him and getting him fined, the former suggested that one of the guns belonging to the station might be thrown into the river and the Daffedar accused of having lent it to Yakub Alli. Early next morning (9th March 1891) before day break, the 1st accused and Constable Narsinga Rao took one of the guns to the river and threw it into the deep near the ferry. On returning to the Station, Rammanna (1st accused) helped himself to a number of cartridges and caps, and left for Chickmaglur, saying that Narsinga Rao need not mention anything about the loss of the cartridges in the Diary, but that should the Daffedar ask him about them, he might say they were in his own desk and that he (Narsinga Rao) did not know what had become of them.

23. On 1st July 1891, Narsinga Rao pointed out the place where the gun had been thrown into the river. The river was then in flood and the gun could not consequently, be at once recovered. It was fished for in April 1892 and was discovered at the spot indicated by constable Narsinga Rao.

24. After constable Narsinga Rao's examination, it was ascertained that out of the two hundred cartridges, dated and initialled by the Reserve Jamedar on the 16th September 1890, 4 cartridges had been sent to Balehonnur station and that they were lost along with the other cartridges. It was only after this that suspicion arose against the 1st accused in respect of the cartridge picked up near the scene of the occurrence. While the Police Assistant was making investigation

at Agalgundi, the 1st accused was examined at Chickmaglur by the Assistant Commissioner Mr. Narayan Iyengar on 1st July 1891. He then admitted his going to Kutugod and stated that he remained there from the 2nd to the 6th June 1891, and left it on the morning of the 7th and reached Mallaisangudda on the 8th June 1891. The Police Assistant sent for some of the servants of the Kutugod house including Maler Subba (10th prosecution witness) and elicited from them that the 1st, 2nd and 3rd accused as well as Bellandur Ramu met together at Kutugod on the 3rd June 1891 when the 5th accused sent for a double-barrelled gun, which had been given out for repairs; that they fired trial shots under the pretext of shooting at a tiger and that the 1st, 2nd and 3rd accused left Kutugod with the gun on the night of the 3rd June 1891, but were not seen again at Kutugod till the morning of the 6th June 1891.

25. Rangaya Hebbar (27th witness) of the Mallaisangudda Estate produced on 15th July 1891, before the Assistant Superintendent, a letter dated 30th June 1891, addressed to him by 1st accused (Exhibit A 24) and stated that 1st accused had visited Mallaisangudda on 8th June 1891, that 1st accused was then in need of currency notes for cash and had suddenly disappeared leaving a *maguta* behind, on hearing of the discovery of a Police cartridge near the scene of occurrence.

26. Shortly afterwards *i. e.*, on 24th July 1891, Khandari Mahomed Sha Khan produced chit (Exhibit A-89) and stated before the Assistant Superintendent that it had been sent to him by Vagale Venkatachalliya, with a request to help Ramanna, 1st accused and another in waylaying N. Krishna Rao, on the road between Umbli-byle and Shimoga. It was said that the chit was delivered to him by an old Brahmin and that attempt was unsuccessful.

27. In the meantime *i. e.* about the middle of July 1891, the 1st accused again visited Mallaisongudda and endeavored to get back the *maguta* which he had left behind him on the occasion of his previous visit in June 1891. Rangaiya Hebbar declined to give it back as the Police Assistant Superintendent had asked him not to return it to the 1st accused till permitted. Thereupon the 1st accused, after vainly trying with Rangaiya Hebbar's Mutsaddy, Gunde Rao (31st witness) to get up evidence of an *alibi* for his having been at Kutugod all the night of the 5th June 1891, he succeeded in persuading another Mutsaddy, Hampapur Rammanna (38th witness) to resign service under Rangaiya Hebbar and took him to Kutugod on the 18th of July 1891. After their arrival, accounts of the Kutugod house were altered; petitions were sent up against the Police, accusing them of torture; Kavadi Venkatabhatta (15th prosecution witness) and Aiyabhattara Subbaiya (15th witness for defence) also came to Kutugod house after the arrival of the 1st accused and Hampapur Ramanna. The 1st and 5th accused consulted together and hit upon the advisability of neutralizing the effect of the statements which the servants of the Kutugod house had already made before the Police Assistant Superintendent and sent for the servants as well as Vagale Venkatachallaiya (42nd prosecution witness) and told them to go to Chickmagalur and prefer complaints of torture. All except Maler Subba (10th prosecution witness) and Vagale Venkatachallaiya (42nd witness) consented.

Before sending the servants to Chickmagalur to prefer complaints, a discussion arose between the 1st and 5th accused with reference to the statements of the 5th accused and his brother denying the presence of the 1st accused at Kutugod on the night of the murder, in direct contravention of the statement made by the 1st accused before Mr. Narayan Iyengar, admit-

ting his presence at Kutugode about the time of the murder. The 5th accused pacified him and said that he would write to his father and would send Aigala Venkatramanaiya and Aiyabhattacha Subbaya to Shimoga to ascertain the views of his father, the 4th accused, (then in jail) as to whether 1st accused's presence about the time of occurrence should be admitted or not and would act accordingly. The 1st accused agreed to this proposal.

28. Subject to 4th accused's approval, the 5th accused, at the instance of the 1st accused, caused an endorsement of payment to be made on the back of Exhibit A-I, with a view to prove the presence at Kutugod, of Kavadi Venkatabhatta and Vykuntapur Bella Bhatta on the night of the murder so as to enable them to give evidence, if contingency arose, that the 1st and 3rd accused as well as the 5th accused and Bellandur Ramu remained at Kutugod the whole of that night (5th June 1891).

Exhibit A—I is a bond executed by Kavadi Venkata Bhatta in favor of the 4th accused on 21st March 1888, and it remained undischarged for over three years; and the Endorsement below it Exhibit A—2 was antedated as 5th June 1891, signed by Krishna Bhatta (4 accused's elder son) and attested by Vykuntapur Bella Bhatta, who was shortly after remunerated by means of a Hundi for Rs. 300 (Exhibit V).

29. About the same time *i.e.* on 22nd July 1891, large sums of money were given to 1st accused by 5th accused and his brother Krishna Bhatta (12th defence witness) care being taken, however, to conceal the name of the 1st accused in relation to this transaction. The sums so paid were partly in cash and partly by means of Hundies drawn in favor of 1st accused's confidant, Hampapur Ramanna (38th witness).

Rupees 200 in cash, Rs. 300 Hundi,

dated 22-7-91, drawn on Dodmane Veerappa of Berur.

Rupees 283 $\frac{3}{4}$ Hundi dated 22-7-91 drawn on Amildar Ramachendra Rao of Chickmaglur. The total sum thus paid being Rs. 783-12-0. Leaving out Maler Subba (10th witness) and Vagale Venkatachellaya (42nd witness) who declined to prefer false complaints of torture against the Police Assistant, the 1st and 5th accused sent the Kutugod servants *viz.* 3rd accused Lingoji, Bellandur Ramu (now *non est*), Venkatagiri (17th defence witness), another by name Linganna, to Chickmaglur with H. Ramananna (38th prosecution witness) to prefer complaints of torture against the Police and thereby retract their statements made to the Police Assistant. Two or three days afterwards, the 1st accused also arrived at Chickmaglur.

30. In the meantime, as already resolved by the 1st and 5th accused, Aigala Venkataramanaya (36th witness) and Aiyabhattara Subbaya (15th witness for defence) were sent with a chit to Shimoga with instruction to deliver it to 4th accused in the Jail and bring back reply from him. They both went to Shimoga, delivered the message to 4th accused in Jail, and the reply of the 4th accused to the effect that 1st accused's presence at Kutugode should not be admitted, was duly communicated to 5th accused. The amount received and spent by these two persons on this occasion in Shimoga, are found in the accounts kept by 4th accused's son and in that of Sirsappa, 18th witness for prosecution.

31. The complaints of torture were preferred against the Police in the latter part of July 1891, the 1st accused taking considerable interest in the prosecution thereof. The two Hundies brought from Kutugode were cashed at Chikmaglur on the 25th July and 16th August 1891 respectively, and only Rs. 400 were received by Hampapur Ramananna on account of these

Hundies *i. e.*, Rs. 200 from Chennagiri Subbanna (witness) and Rs. 100 from Amildar Ramachandra Rao (14th witness). Out of this a small sum was spent on account of torture complaints, Rs. 165 was appropriated by Hampapur Ramanna and the balance remained with the 1st accused in addition to cash payment of Rs 200 received by him at Kutugode.

32. The torture complaints were enquired into by Col. Campbell and dismissed as being false and intended to thwart the the Police investigation.

33. Seeing that the torture complaints had not the desired effect, the 1st accused betook himself to another means of diverting suspicion from himself and the Kutugode people. On the 4th September 1891, he went to the Police Assistant and begged him to be allowed to detect the case. On this fact being brought to the notice of Col. Campbell, it was decided that 1st accused "should be allowed to shew his hand as far as as he was inclined to do so". Thereupon the Police Assistant seemingly consented to accept the 1st accused's services as a detective. On the 10th September 1891, the 1st accused desired that a written voucher be given to him promising him reward, if he should bring the real offenders to justice. To this effect Exhibit A-98 was given to him by the Police Assistant Superintendent.

34. On receipt of this, the 1st accused accompanied by Hampapur Ramanna took the Police Assistant to go to Sringeri. On the way, however, *i. e.*, from Balehonnur the 1st accused and Hampapur Ramanna went to Kutugode, asking the Police Assistant to go to Sringeri direct. On the 12th September 1891, 1st accused and Hampapur Ramanna settled accounts with 5th accused and his brother. The bulk of the amount which had been appropriated by the 1st accused was, to avoid suspicion, put down in the accounts of the 5th accused as having been refunded to

him. To make it appear that these suspicious accounts were not settled at a time at which evidence might be adduced to prove that 1st accused was at Kutugode, the page which contained the original settlement of accounts was subsequently removed and new leaves were substituted antedating the settlement.

35. After the accounts were settled, the 1st accused told the 5th accused to send for Sivaiya (approver) who, on arrival, was told to go and fetch Vagale Venkatachellaiya. He accordingly went and brought Vagale Venkatachellaiya to Kutugode. On Vagale Venkatachellaiya's arrival, the 1st and 5th accused pressed him to give a false confession implicating Dharaniya Setti, (an enemy of 4th accused and a partizan of the deceased) and others, assuring him at the same time that a promise of pardon would be obtained for him. Vagale Venkatachellaiya consented.

Then the 5th accused ordered the 3rd accused to bring the gun which had been buried in the garden. The 3rd accused accordingly brought the gun, which the 1st accused took and all the three, viz. the 1st accused, approver Sivaiya and Vagale Venkatachellaiya then went to the Tunga river near "Kotekalu" and buried the gun under a "Toranigana tree." After burying the gun, the 1st accused and Vagale Venkatachellaiya went to Kutugode while Sivaiya (approver) went back to his village.

36. Then the 1st accused took Vagale Venkatachallaya to Sringeri and produced him before the Police Assistant Superintendent. 1st accused had told Vagale Venkatachallaya to ask the Assistant Superintendent for pardon papers, which on being asked, were given to Vagale Venkatachallaya by the Police Assistant (Vide Exhibits A—90 and A—91). Thereupon Vagale Venkatachallaya made a confession as tutored by the 1st accused. After recording the confession, the Police Assistant took

Vagale Venkatachallaya and Panchayetdars to where the gun was said to have been buried. The 1st accused also joined them shortly. Vagale Venkatachallaya after showing some false places as instigated by the 1st accused and perceiving that the Police Assistant was about to leave the place, being disgusted of the search made for the gun, he at last pointed out the spot where the gun had been really buried and the gun was unearthed. A Mahazar was prepared and the gun was taken to Head Quarters. That gun is the gun marked as (Exhibit C) in this case. The 1st accused was thereupon ordered to produce his witnesses in corroboration of Vagale Venkatachallaya's confession and he brought to Chickmaglur the following witnesses.

1. H. Nagappa (4th accused's Gumasta and 33rd witness, who was taken by 1st accused to Kutugode and was induced and pressed by 5th accused to give evidence).
2. Kalingaya (4th accused's relative).
3. H. Subbanaya (a debtor of 4th accused).
4. Lukshminarayan Bhatta (Pujari of Bolur temple of which 4th accused is the Manager) and another hireling.

The Police Assistant Superintendent disbelieved the evidence of these persons and released Vagale Venkatachallaya on his own recognizance and submitted a B Sheet to the District Magistrate who accepted it and discharged Vagale Venkatachallaya from his bail bond on 28th September 1891. Here the endeavour of the Police to detect the case came to a stand-still.

37. In October 1891, the Head Quarter Inspector of Kadur came as far as Birur with a view to gather evidence at Shimoga, but he returned back, as the person who was to help detection, had left Shimoga.

38. On 22nd October 1891, the 4th accused, Singabhatta, was released from the Shimoga Jail. He remained in Shimoga for sometime after his release, at a place called

Arkeshwara temple. On the 25th October 1891, he sent a letter to his Gumasta, H. Nagappa, then at Sringeri, falsely charging him with having withheld certain accounts of moneys entrusted to him, during the pendency of the case against him (4th accused) and urgently summoning him to come to Shimoga and settle accounts. H. Nagappa (33rd witness) accordingly went to Shimoga and on his remonstrating with the 4th accused, who was putting up in Arkeshwara temple, for having sent such a letter, the 4th accused replied that he had written it because he (Nagappa) did not go and wait upon him on the date of his (4th accused's) release. Nagappa staid with 4th accused in the Arkeshwara temple at shimoga for a few days. During that period, one day the 1st accused happened to come to the lodgings of the 4th accused, but the 4th accused did not speak to him. Thereupon, the 1st accused said thus:—"I have finished the work as desired by you. You have not paid me all the money promised". To which the 4th accused replied as follows :—" I had asked you to do the deed without going to Kutugode. But you deposed before the Assistant's Court that you had been to Kutugode. On account of this I have sustained heavy loss. I will not therefore pay you-go"; whereupon the 1st accused, with tears in his eyes, said : " I have incurred a bad name on your account. I have also lost my appointment." To this, the 4th accused made no reply and the 1st accused abruptly left the 4th accused's lodging.

39. From 2nd up to 9th March 1892, the Head Quarter Inspector again made some unsuccessful attempts to detect the case. Symptoms of a possible split occurring in the camp of the 4th accused and his accomplices were vaguely visible in March 1892. But as the time had not yet arrived for the truth to come out, the Head Quarter Inspector had to leave Sringeri disappointed.

40. Subsequent to this, the 4th accused filed several Civil Suits against his confi-

dants and accomplices, viz, H. Nagappa, Vagale Venkatachallaiya, Kavadi Venkata Bhatta and Heggade Totada Sivaiya. Some of which have been proved by the duplicate accounts of the 4th accused to be totally false.

41. An old case of theft of some records which had occurred so far back as 1886 and had been thrown out on a B. sheet, was revived on an anonymous petition (the probable authors being the 4th accused) against the present approver, Sivaiya and another. During the investigation which was started in April 1892, on the strength of that anonymous petition, 2nd accused, Narasaiya, was put up to produce the "stolen records" and to implicate the approver (Sivaiya) for the first time, while Bellandur Ramu offered to give evidence against him.

42. About the close of July 1892, there was a regular split in the 4th accused's camp owing to the filing of suits and taking out attachments.

43. In the meantime, the Police renewed their endeavours to detect the case under the orders of the Inspector General of Police. The accomplices, confidants, and dependants of 4th accused, who had become fully aware of the real intention of the 4th accused to deceive them, came out with the truth which they had so long faithfully concealed.

44. On the disclosures thus made by them, the accused persons were arrested and their places of residence searched in the latter part of August 1892. The 1st accused was then at Chennagiri. He was found to be in possession of the pardon papers granted to Vagale Venkatachallaiya in September 1891 (Exhibits A-90 and A-91). A copy of judgment (Exhibit B—2), obtained by Bellandur Ramu in the torture case was also found in his possession, with a lot of other papers, shewing 1st accused's connection with these men. In the 4th accused's house were found duplicate ac-

count books, post cards and other letters shewing the suspicious entries regarding the Hundi transactions between the 5th accused and Hampapur Ramanna and the friendly relations between 4th accused and Gergal Chennabasappa one of the bad characters employed by 5th accused in an attempt to way lay N. Krishna Rao, which proved unsuccessful.

45. During the search of Hampapur Ramanna's house, two Account patties, (Exhibits A-78 & A-79) relating to Hundi transactions and payments made to 1st accused, &c. were seized. With him were also found two Draft petitions (Exhibits A-76— and A-77) written partly by Aiyabhattara Subbaya for the 5th accused complaining against the Police. Chennegiri Subbanna's accounts were examined. Kavadi Venkata-Bhatta who was then in Jail also came out with a full disclosure. He was taken by the Police Assistant to his village where he produced a number of Nagari and Kanarese letters of 4th accused, shewing the deep-rooted enmity which existed between the 4th accused and the Deceased, as also the friendly relations which subsisted between Vagale Venkatachellaya, Kavadi Venkata Bhatta and the 4th accused. He also produced the bond (Exhibit A-1) containing the endorsement of payment (Exhibit A-2) which had been antedated as 5th June 1891, to create evidence of the *alibi* in favor of the 1st accused and others.

46. In the course of the investigation, H. Nagappa produced several Nagari and Kanarese letters. The genuineness of most of them has been admitted by the 4th accused, while that of others has been clearly proved.

47. On the evidence thus collected, of which but a brief account has been given above, the accused were placed before the Magistrate on the 11th October 1892.

**Facts admitted by the Judge
as proved, and also facts
admitted by the
accused.**

(1) That Krishna Rao lived in Handalmane which is the only house in that hamlet.

(2) That the death of Krishna Rao was homicidal and not either suicidal or accidental and that he died of a gun shot wound. (Para 10 of Judgment)

(3) That the date and initials on the cartridge found in the Kottige are those of the Reserve Jamadar; that he dated and initialled 200 cartridges on 16-9-90 and that 4 of these reached the Balehonnur Station on 3rd October 1890. (Para 15 of Judgment.)

(4) That the statement of Constable Narasinga Rao charging the Duffedar with having given the missing gun to Yakub Alli and that the latter failed to restore it on demand was probably false. (Para 15 of Judgment.)

(5) That the 4th accused is a man of influence, that he was long smarting under the trouble and annoyance which Krishna Rao was incessantly giving him by getting up cases against him, that it was unnecessary to give a list of those cases, that they were not few in number, that in one of those cases the 4th accused was sentenced to two years rigorous imprisonment in October 1889, while in another he was removed from Shimoga to Chickmagalur in prison dress, that the 4th accused's attempt at retaliation were nearly all of them unsuccessful, and that the relations between the deceased and the 4th accused were thus such that if there were sufficient and reliable evidence as regards the offences, I should consider the motive on the part of the 4th accused abundantly established. That the same observation applies to the 2nd accused who had suffered much persecution from the deceased, who had once got his cook to charge him with the destruction of a valuable security, that the deceased had

further induced a Mr. Collins to institute a suit against the 2nd accused upon a bond which was apparently barred by limitation; that that suit and the appeal which had to be carried to the District Court was conducted by the deceased in the *benami* of Mr. Collins; that it is needless to mention several other matters which embittered the relations between the 2nd accused and the deceased. That the 3rd accused is a servant of the 4th accused and that in his case that relationship may be reasonably accepted as an adequate motive; that the 5th accused is a son of the 4th accused and was naturally actuated by the same motive as his father. The 1st accused was a constable on special duty and in his case the motive alleged was a reward of Rs. 1000 promised to him by the 4th accused and I may take it that that was a sufficient motive." (Para 17 of Judgment).

(5) That after coming out of the Jail, the 4th accused made himself obnoxious to many of his old friends and debtors and filed a large number of suits some of which were perhaps unfair and unjust to his debtors. (Para 19 of Judgment).

(6) That Sivaya made an exhaustive statement before the Amildar admitting his own guilt and inculcating also the prisoners now before the Court. (Do)

(7) That the prisoners are arraigned on a charge of murder upon evidence chiefly borne by persons who as the 4th accused's friends had formerly denied all knowledge. (Para 19 of Judgment).

(8) That Sivaya was formerly a *suttigekula* of the 4th accused; that he was a witness for the 4th accused in the case, which resulted in the conviction of the 4th accused. (Para 20 of Judgment).

(9) "That there is some *substratum* of truth in what Sivaya says respecting the commission of the murder, I am quite prepared to believe." (Para 28 of Judgment).

(10) That Maler Subba was dismissed

from service of the Kutugod house 3 or 4 months after he gave his statement before the Police Assistant. (Para 42 of Judgment).

(11) "I do not believe the 4th accused's assertion that H. Nagappa did not in any way interest himself in Sidle Nanjunda-Bhatta's case and that the documentary evidence on this point is clear and conclusive." (Para 43 of Judgment.)

(12) "I am perfectly satisfied that Nagappa did go to Shimoga and Chickamagalur and take an interest in the two criminal cases which were tried against the 4th accused in September 1889 and in February and March 1890." (Para 43 of Judgment.)

(13) "I am willing to believe that there was laxity on the part of the lockup officials and guard and that occasional visits to the lockup by Nagappa were quite possible. Nagappa was probably one of those who took cooked food to Singabhatta's co-prisoners." (Para 44 of Judgment.)

(14) That Nagappa seems to have had an opportunity of seeing the 4th accused in the lock-up and speaking to him. (Do)

(15) Exhibit A 46 contains inherent and indisputable proof of the falsity of the 4th accused's assertion. (Para 44 of Judgment).

(16) That Exhibit A 46 was prepared in the Chickamagalur lockup during the pendency of the false evidence case and that there is no doubt that it was delivered to Nagappa by the 4th accused in the lockup. (Do)

(17) That it is thus clear that Nagappa did see the 4th accused and talk to him in the lock-up about the charge of forgery and about other matters." (Do)

(18) That it is a fact that Nagappa sent word to Sivaya and to the 2nd accused as desired by the 4th accused and that they came to Chickamagalur. (Para 44 Do)

(19) It is possible that Kencha Hanuma was doing the 4th accused such little favors

as stealthily importing into the Jail, snuff and other eatables for him. (Para 45 of Judgment.)

(20) That Nagappa went to Shimoga on receipt of letter A 61 and saw the 4th accused in a certain temple. (Para 49 of Judgment).

(21) That afterwards (*i. e.* after the above interview) Nagappa was dismissed by Singabhatt from service." (Para 50 of Judgment).

(22) That Exhibits A 46, A 47, A 50, A 51, A 52, A 53 and A 54 are the official papers which were delivered to Nagappa by the 4th accused in the Chickamagalur lock-up. (Para 51 of Judgment).

(23) "I am of opinion that Kencha Hanuma of the Shimoga Jail has not told the truth. I strongly suspect that there was some laxity in the management of the Shimoga Jail and that unauthorized communications and interviews between the 4th accused and his friends thus became quite possible." (Para 52 of Judgment.)

(24) That there is no doubt that Aiya-bhattara Subbaya was present when Petitions A 76 and A 77 were drafted for the 5th accused and his brother. (Para 55 of Judgment).

(25) It is doubtless true that Khandari Mahomed Sha Khan is not a safe and trustworthy witness. (Para 59 of Judgment).

(26) That it is true that deceased was the person that chiefly interested himself in the appeal preferred by Mr. Collins against the 2nd accused. (Do)

(27) "I am not prepared to say that the statement of Rangaya Hebbar about Maguta &c., and Hampapur Ramanna going away with 1st accused to take up work in the Kutugod house is not true." (Para 60 of Judgment.)

(28) That the 1st accused may have

had a large sum of money with him on the date of his visit to Mallasaragudda, but he now denies it for fear of being misconstrued and suspected. (Para 60 of Judgment).

(29) That the statement of Hampapur Ramanna that he accompanied the 1st accused to Kutugod house where he was taken into Krishnabhatta's service is not altogether false. (Para 61 of Judgment).

(30) That Hampapur Ramanna played a prominent part in the complaints of torture preferred by Kutugod servants. (Do)

(31) That Hampapur Ramanna who was almost a stranger to Kutugod family unlike the 1st accused who was well known to it, would not have been employed as confidential clerk and entrusted with important business and large sums of money without some strong recommendation such as that of the 1st accused. (Para 61 of Judgment).

(32) "I am not disposed to believe Krishnabhatta's statement to the contrary." (Para Do.)

(33) I think the 1st accused was really present when a consultation was held in the matter of getting the servants of the 4th accused to lodge complaints against the Police Assistant. (Para 61 of Judgment).

(34) Two hundies and a sum of Rs 200 were given to Hampapur Ramanna through the 1st accused. (Para Do).

(35) That Hampapur Ramanna left for Chickmagalur with 4th accused's servants, and the 1st accused joined the party at Chickmagalur 2 or 3 days subsequently. (Para Do).

(36) That these two persons seem to have cashed the two Hundies and a sum of Rs 600 was thus obtained by them including the Rs 200 which had been paid to them in cash by Krishnabhatta. (Para 61 of Judgment).

(37) That H. Ramanna gave a hundred Rupees note to 1st accused out of this amount, who cashed it at Subbanna's shop, a sum of Rs 75 was also placed at the 1st accused's credit in Subbanna's shop and 1st accused has since drawn a portion of it. (Para Do.)

(38) That the 1st accused's statement that the said two sums of Rs 75 and 100 were part of the debt due to him by H. Ramanna upon a plain paper bond, which he is not now in a position to produce, seems to me to be entirely false. (Para 61 of Judgment.)

(39) The 1st accused too was interested in clearing himself and thwarting the Police and that he found a convenient tool in his friend H. Ramanna. (Para Do.)

(40) That after the rejection of the torture complaints, the 1st accused and Hampapur Ramanna went to Kutugod when, there was a settlement of accounts. (Para 61 of Judgment.)

41. "I do not believe Pleader Malhari Row's account of the circumstances under which Ex. B. 2 (copy of order in Bellandur Ramu's torture complaint) was given to 1st accused". (Para Do.)

42. "That Exhibits A 90, A 91, A 98, A 99, & A 100 found in the possession of the 1st accused relate to pardon granted to Vagale Venkatachellaya and to the production of witnesses by 1st accused. They simply prove that 1st accused interested himself in the case at that stage of the Police enquiry." (Para 63 of Judgment.)

(43) That the 1st accused was on leave on the date of the murder. It was no doubt possible for him to have committed the murder. (Para 64 of Judgment)

(44) That the case is by no means free from doubt and difficulty. (Para 69 of Judgment.)

(45) "That the 4th accused is a man of great influence and that naturally no evi-

dence could reasonably be expected from persons who continue to be his friends and under obligations to him." (Do)

(46) Certainly there is a strong suspicion against the prisoners. (Do)

(47) That the 5th accused lent Rs. 100 without interest to writer Coelho of the Shimoga Jail on 17th August 1890. (Admitted by 5th accused.)

(48) That in August 1890 1st accused visited Shimoga at the same time as the 5th accused and Aigala Venkataramanaya went there. (Admitted by 1st accused.)

(49) That the 1st accused remained in Shimoga from 16th to 21st August 1890 (Do)

(50) That on 7th September 1890 the Koppa Inspector directed the 1st accused to detect two cases of murder. (Do)

(51) In October 1890, 1st accused went to Sollebail, Hejse, Nemmar, Kuttugode, Heggade-Thota and other places. Had been to Singabhatta's house and tarried there for a night that being on the way to Sringeri. (Do)

(52) That the 1st accused went to Kuttugod on 2nd June 1891 and left it on the morning of the 7th June 1891 i.e. about that period, he was within 3 or 4 miles of the scene of occurrence. (Admitted by 1st accused.)

(53) That he went to Mallasanagudda on the 8th June 1891 travelling a total distance of about 40 miles within 24 hours. (Do)

(54) That while at Mallasanagudda there was a talk in the 1st accused's presence regarding the discovery of a Police cartridge (or rather as the 1st accused afterwards corrected himself a "cartridge") near the scene of occurrence. (Do)

(55) That 1st accused went away from the said estate without telling any body leaving a *Madi* behind. (Admitted by 1st accused)

(56) That the 1st accused again visited the said estate about the middle of July 1891. (Do)

(57) That the 1st accused went to Shimoga in November 1891. (Do)

(58) That the 1st accused made a statement Exhibit B—23 before Mr. Narayan-Iengar. (Do)

(59) That 1st accused wrote Exhibits A—25 and A—26 to Rangia Hebbar. (Do)

(60) That the 2nd accused had been to Shimoga on two occasions on account of his appeal.

Motive Discussed.

In all cases of Murder, the Prosecution is generally expected to make out a very strong motive on the part of the accused to commit the crime. It therefore becomes necessary in this case to analyze the evidence offered on this point and find out whether such a strong motive as to lead one to a reasonable conclusion that none but the accused could have committed the crime has been made out or not. The Judge no doubt says in para 17 of his Judgment as follows :—

“ It cannot seriously be denied that the 2nd and 4th accused were not the only enemies of the deceased Krishna Rao. It is true that the 4th accused is a man of some influence and that he was long smarting under the trouble and annoyance which Krishna Rao (deceased) was incessantly giving him by getting up cases against him. It is unnecessary to give a list of those cases. Suffice it to say that they were not a few in number and that in one of them the 4th accused was sentenced to 2 years rigorous imprisonment in October 1889, while in another he was removed from Shimoga to Chickmaglur in prison dress. It is also clear that the 4th accused's attempts at retaliation were nearly all of them unsuccessful. The relations between the deceased and the 4th accused were thus such that if there were sufficient and reliable evidence as regards the offence, I should consider the motive on the part of the 4th accused abundantly established.”

2. It is a great pity, however, that on a most vital point like this, the observations of the Judge are not as exhaustive as they should be, especially with regard to the motive on the part of the 4th accused. In fact the Judge has omitted to take into consideration some of the most salient points which would shew a very strong motive, a motive which none other possessed in equal degree on the part of the 4th accused to plot the murder of N. Krishna Rao.

3. Hence it is important to state *seriatim* the several facts which gradually fostered and strengthened the animosity between the deceased and the 4th accused to such an extent as to despairingly drive the 4th accused to the last resort of taking away the life of N. Krishna Rao.

(1) About 10 or 14 years ago, the 4th accused was managing the affairs of his sister's minor son. The deceased Krishna Rao got himself appointed as the lad's guardian and sued the 4th accused's father for the recovery of the minor's property. This gave rise to enmity between the 4th accused and the deceased.

(2) The above fact eventually led to the formation of two antagonistic factions in the Koppa Taluq. At the head of one was the deceased Krishna Rao and of the other was the 4th accused. Krishna Rao's faction consisted of the following principal persons.

- (1) Krishna Rao himself
- (2) Hedse Seetharam Shastry,
- (3) Chinivar Dharnaya Setty,
- (4) Berkodgi Manjappa,
- (5) P. Krishna Shastry and others.

To the 4th accused's faction belonged the following persons :—

- (1) Singabhatta (4th accused)
- (2) H. Sivaya (approver)
- (3) Narasaya (2nd accused)
- (4) Kademane Seshabhatta,
- (5) Kavadi Venkata Bhatta,
- (6) Vagale Venkatachellaya.

(NOTE. This man joined 4th accused Singabhatta's party since he got his brother, to depose in favor of the 4th accused in Criminal Case No. 10 of 1889. Prior to that he was in the deceased's party having had dealings with his partizan Berkodgi Manjappa).

(3) The first Criminal case in which deceased Krishna Rao admittedly took great interest against the 4th accused is Criminal Case No. 76 of 1880, in which the 4th accu-

Vide Exhibit A—3 and the statements of

1. H. Nagappa
2. K. Venkatabhatta
3. Aiyagala Venkatramanaya
4. Vagale Venkatachellaya
5. Dharnaya setty
6. Phaniappa

33rd witness H. Nagappa also speaks to this point.

sed was convicted. Against the conviction and sentence in that case the 4th accused preferred an appeal. (Appeal No. 6 of 1881 on the file of the Sessions Judge, Nagar Division) and one of the grounds of his appeal was "that his enemy N. Krishna Rao and Mr. Phillips had entered into a conspiracy to ruin him". (Vide the copy of Judgment filed in Criminal Case No. 41 of 1889, Pages 447 to 474, the words herein quoted will be found at page 453 of that record).

(4) Another Criminal Case No. 226 of 1888 on the file of the 2nd class Magistrate of Karkal, South Canara, was brought against the 4th accused, Kademane Seshabhatta and H. Sivaya (approver) by one Gummanu under Sec. 380 of the I. P. Code. In Exhibit B—30 the 4th accused distinctly says that the above case was falsely got up by his enemy Krishna Rao through his cooly maistri complainant Gummanu.

Vide Exhibit A—6 and the evidence of K. Venkatabhatta and Vagale Venkatachellaya.

Note.—

In this case Vagale Venkatsubbaya (brother of the Vagale Venkatachellaya) who had been cited by complainant to support the charge turned hostile and gave evidence in favor of the 4th accused.

(5) The next Criminal Case No. 10 of 1889 on the file of the General Assistant Commissioner of Kadur was brought by one Anantha Bhatta (deceased Krishna Rao's cook) against the 4th and the 2nd accused under Sec. 427 I. P. Code. In Exhibit B—32 the 4th accused says that this case was also got up against him by the deceased Krishna Rao through his *Parichark*. In this case deceased N. Krishna Rao was examined by the court and he admitted during his examination that he had been coming to Chickmagalur with the object of seeing Singabhatta punished for his misconduct.

(Vide Dharanaya setty's evidence).

(6) The next case was that set up by the 4th accused Singabhatta against Dharanaya-setty who belonged to deceased Krishna Rao's faction. This was Sessions Case No. 8 of 1888 (Vide copy of Judgment filed in Case No. 3 of 1889, pages 323 to 372).

(Vide Exhibit A—4 and the evidence of K. Venkatabhatta and H. Nagappa.)

(7) Another case of Dacoity was got up by the 4th accused against the deceased in 1889. N. Krishna Rao (deceased) was tried in Sessions Case No. 3 of 1889 and was acquitted.

The Defence of deceased Krishna Rao in this case was that it had been got up by his enemy the 4th accused. The Sessions Judge found the case to be entirely false and granted sanction to prosecute the following persons for having preferred false complaint of dacoity and for having given false evidence.

- (1) Complainant Naganna,
- (2) Singabhatta (4th accused),
- (3) Tilki Manjappa,
- (4) Singanna,
- (5) Nemmar Naganna,
- (6) Timmanna,
- (7) Doddane Kalaya.

(8) About the same time, Criminal Case No. 41 of 1889 on the file of the General Assistant Commissioner, Kadur District, Theft in a building under Section 380 I. P. C. was brought by one Sidle Nanjundabhatta and his son against the 4th accused Singabhatta and his dependants. The trial commenced on the 20th September 1889 and ended on 22nd October 1889, resulting in the conviction of Singabhatta who was sentenced to two years rigorous imprisonment. In this case approver Sivaya was a witness for the 4th accused to prove his plea of *alibi*.

In Exhibit B—30 Singabhatta clearly states that N. Krishna Rao got up this case against him. In his petition of appeal against the conviction and sentence passed in this case, the 4th accused urged that the case was got up by his enemies N. Krishna Rao and Dharanya setty (Appeal No. 17 of 1889 on the file of the Sessions Court, Nagar Division).

(9) Under the authority of the sanction granted by the Sessions Judge of Nagar in Sessions Case No. 3 of 1889, deceased Krishna Rao filed a complaint against the 4th accused and others in the court of the District Magistrate of Kadur on the 10th January 1890, charging them with having preferred false complaint of Dacoity and having given false evidence. In this com-

Exhibit A—45.

plaint petition; the deceased Krishna Rao clearly states that there was enmity between him and the 4th accused for the past 12 years. That case was posted to 27th January 1890 for trial and an order was sent to the Shimoga Jail to send the 4th accused who was then a convict there. The 4th accused tried to avoid going to Chickmaglur in prison dress by feigning sickness and sending a medical certificate and he succeeded in his attempt; for, on the 24th January 1890 the Jail Superintendent of Shimoga forwarded medical certificate Exhibit B—15 saying that Singabhatta was

(Vide Exhibit A—44 wherein allusion is made to too ill to be sent. The case was consequently adjourned to 4th March 90 and the 4th accused Singabhatta was after all obliged to go in prison dress to Chickmaglur where he arrived on the 17th February 1890, with his Gumasta H. Nagappa (33rd witness). While in the Chickmaglur lockup the 4th accused appears to have been thinking over the troubles and annoyance given to him by the deceased Krishna Rao and the disgrace brought upon him by his having been removed in prison dress to Chickmaglur. While in this frame of mind the idea of taking revenge on N. Krishna Rao seems to have occurred to him again. He then recollected that a petition alleging misconduct on his part in the management of the affairs of the Hariharpur Matt had been sent by N. Krishna Rao to the Dewan's office in September 1887. He made up his mind to have a complaint of forgery preferred against N. Krishna Rao by the 2nd accused who had so far back as 1888 denied his signature to that petition. The 4th accused accordingly prepared Exhibit A—46 (admitted by him) in the Chickmaglur lock-up mentioning the fact to be embodied in the petition, the Exhibits to be produced and the witnesses to be summoned as well as the court to which the complaint should be preferred and handed it to H. Nagappa (33rd witness) directing him to send for the 2nd accused Narasaya and H. Sivaya the approver. But before the arrival of these two

persons the feelings of the 4th accused against the deceased appear to have grown very strong so much so that he actually gave up the idea of bringing the charge of forgery against the deceased and asked the 33rd witness Nagappa to bring the 1st accused Police Ramanna to the Chickmagalur lockup. Accordingly Nagappa took the 1st accused to the Chickmagalur lockup where, as stated by Nagappa, the 4th and the 1st accused conspired to put an end to the life of N. Krishna Rao. Such was the state of the mind of the 4th accused when the plot against the life of Krishna Rao took place.

4. As regards the motives of the other accused, the following observation of the Judge will suffice. "2nd accused had suffered much persecution from the deceased. The latter once got his cook to charge the former with the destruction of a valuable security. He further induced a Mr. Collins to institute a suit against the 2nd accused upon a bond which was apparently barred by limitation. That suit as well as the appeal which had to be carried to the District Court was conducted by the deceased in the *benami* of Mr. Collins. It is needless to mention several other matters which embittered the relations between the 2nd accused and the deceased. The 3rd accused is a servant of the 4th accused. In his case that relationship may be reasonably accepted as an adequate motive. The 5th accused is a son of the 4th accused and was naturally actuated by the same motive as his father. The 1st accused was a constable on special duty. In his case the motive alleged was a reward of Rs. 1000 promised to him by the 4th accused. I may take it that that was a sufficient motive."

5. From the above it is very clear that the accused had the strongest possible motive to commit the offence. But the Judge states that the accused were not the only enemies of the deceased, very probably wishing it to be inferred that the other enemies of deceased Krishna Rao might have

done the deed. But who those enemies were and what sort of enmity existed between them and Krishna Rao, when it arose, when it ended or whether it was subsisting at the time of the death of Krishna Rao or not, have neither been proved by the accused nor specifically stated by the Judge in his Judgment, moreover not a scrap of paper in the shape of Government record or other document has been produced by the defence to prove the supposed enmity which is alleged to have existed between the deceased and some other unknown persons.

THE EVIDENCE

FOR THE

PROSECUTION.

1. The chief contention of the Prosecution is that but for the split which arose in the 4th accused's camp in the latter part of July 1892, this case would not have seen the light. Therefore in weighing the evidence for the Prosecution it should be remembered that in every case in which a crime is committed by several persons in pursuance of an organized conspiracy, it would be unnatural to expect the members of the conspiracy to come forward and admit the crime implicating their fellow conspirators so long as friendly relations subsist between them.

2. In Para. 69 of his Judgment the Judge very properly admits as follows:

"I have not lost sight of the fact that the 4th accused is a man of great influence and that naturally no evidence could reasonably be expected from persons who continue to be his friends and under obligations to him."

3. It would therefore be positively detrimental to the administration of public justice to apply to cases of this kind the ordinary rule of discrediting witnesses on the ground of recent animosity subsisting between them and the person accused. If so, offences secretly committed by more than one person in pursuance of a conspiracy cannot possibly come to light. Hence in this case, the recent misunderstanding between 4th accused Singabhatta and his accomplices and confidants must be taken rather in favor of the Prosecution as constituting a motive for the witnesses to divulge the truth than against it as furnishing ground for discrediting their evidence.

4. With these brief remarks I proceed to discuss the evidence for the Prosecution and to show that the Judge's remarks thereon are not reasonable.

The incidents of the discovery of the cartridge, the bullet, the piece of cartridge-paper and the broken tooth and the plug discussed.

1. The Amildar held the inquest on the evening of the 6th June 1891 between 4 and 6 P. M.

2. The discovery of the cartridge and the bullet is not mentioned in the Mahazar, which concludes with the Amildar's remark directing Post mortem examination and which bears his signature under date the 6th June 1891, 6 P. M.

3. Below this occur two more postscripts written in different ink, the first one relating to the discovery of the cartridge and jammed bullet dated the 6th June 1891, and the second one relating to the discovery of the broken tooth and pieces of cartridge paper dated 7th June 1891.

4. A piece of plug was discovered by the Hospital Assistant during the Post-mortem held in the absence of the Amildar on the 7th June 1891 at about 10 A. M.

5. The discovery of all these articles is no doubt important in this case as furnishing a valuable piece of evidence; but the Judge disbelieves the evidence regarding the discovery of these things and holds that the introduction of the cartridge and the bullet into the case is a concoction.

6. The concoction theory of the Judge is based mainly upon the supposed suspicious characters of the postscripts in the handwriting of the Amildar regarding the discovery of these articles.

7. The evidence in this case is that the cartridge was picked up at the Kotige by one Venkatachella Bhatta pujari of Nemmar Devasthan on the morning of the 6th June, when he happened to pass by that place. He brought and shewed it to those who were present. After some discussion in the matter it was decided by those

present that it should be safely preserved and shewn to the Amildar when he should arrive. It was then handed to deceased's nephew Gopalaya who kept it. The jammed bullet was, it is stated, picked up also on the 6th June 1891 at about 9 A. M. by one Sankara in the *Angala* in front of the pial. The cartridge and the bullet were produced before the Amildar and the Hospital Assistant on the evening of the 6th June after the Mahazar was closed and the postscript relating to the production of the cartridge and bullet was made below the Mahazar by the Amildar on the evening of the 6th June 1891. On the morning of the 7th June when the body was lifted up before its removal for *post mortem*, a broken tooth and some pieces of cartridge paper were found under the body. A second postscript was then added to the Mahazar by the Amildar.

(8) No doubt these postscripts are signed by the Amildar alone and not by any of the witnesses, who signed the Mahazar.

(9) A copy of the Mahazar containing these two postscripts was forwarded to the Deputy Commissioner's office at Chickmaglur where it was received on the morning of the 11th June 1891, an English translation of the same being submitted to Col. Campbell on the same day. According to Postal arrangements (which the courts of law are bound to take Judicial notice of) it takes $2\frac{1}{2}$ days for letters posted at Sringeri to arrive at Chickmaglur, where they are usually delivered the following morning. Consequently the Amildar's Diary of the 6th and 7th June with the copy of the Mahazar must have arrived at Chickmaglur on the evening of the 10th idem, having been posted at Sringeri on the morning of the 8th the latest.

(10) The Diary of the 6th June 1891 with the copy of the Mahazar was not posted on the 7th as the Amildar was detained at Handalmane, where there is no Post office

till about 10 A. M. when the body was removed to the river side for *post mortem*, from where he left for Sringeri on receiving news of his mother's ill-health. These facts make it clear that the latest time when the Amildar could have written the postscript below the Mahazar relating to the production of the cartridge and jammed bullet was either the evening of the 6th June or the morning of the 7th when the postscript relating to the discovery of the broken tooth and cartridge paper was recorded below the same. In either case the find of the cartridge and bullet cannot be said to have been fabricated as will be shewn further on.

(11) The Judge says in Para 12 of his Judgment that in the Amildar's Diary of the 6th June there is not a word said either about the cartridge or the flattened bullet. But the Judge has lost sight of the fact that a copy of the Mahazar containing the two postscripts in question was sent along with his Diary of the 6th, written on the 7th and which was received at the Head Quarter office at Chickmaglur on the morning of the 11th June 1891 as already stated. So the omission to make any reference in the Diary regarding the production of the cartridge and bullet cannot support the Judge's inference.

Moreover, in the Diary of the 7th June written on the 8th, it is distinctly stated that Gopalaya produced on the evening of the 6th June a sircar cartridge as having been picked up by Venkatachellabhatta on the morning of the same day (6th June). The Amildar states in this Diary of the 7th, that the cartridge which was discovered at Nemmar bears date 5-9-1890, with the initials of the Reserve Jamadar; that it was not known to which Taluk it was issued on that date; that on examining the cartridges at the nearest station it was found that none of them bore similar marks; that this cartridge looked like those of the Head office, and that if that was the case it could not have come out without the help of the Police; that he was

making enquiries there and that similar enquiries might be made in the Huzur office, that it should be ascertained whether the Reserve Jamadar had initialled any cartridges in red ink and if so to what stations they were supplied and that that information should be communicated to him confidentially. Do these queries of the Amildar regarding the cartridge in question shew his want of previous knowledge as to the existence of dated Police cartridges and his curiosity to ascertain how the cartridge in question could have come to lie near the scene of occurrence? Or do they shew that the Amildar fabricated the cartridge incident as presumed by the Judge? It would, under the circumstances, be most unnatural to suspect the Amildar of concocting.

(12). In the same para of the Judgment, the Judge says that no reference is made in the Diary of the 7th June 1891, to the finding and production of the flattened bullet. First of all it was not necessary to make any allusion to it in the Diary as a copy of the Mahazar containing the postscripts accompanied the Diary of the 6th June. Allusion to it was omitted in this Diary evidently because the Amildar looked upon this flattened bullet as being unconnected with the offence as can be seen from his own remark below the Mahazar to the effect that the fatal bullet remained in the body and that the *post mortem* should be held to find out the fatal bullet. The Judge also holds that this flattened bullet had no manner of connection with the murder of N. Krishna Rao. It is thus clear that the flattened bullet might have been dropped in the Angala by some one and accidentally picked up by Sankara and produced in order to mislead the Hospital Assistant who had to perform the *Post-mortem* which was rather against the caste feelings of the inmates of the deceased's house. The Amildar who was groping in the dark as to how the cartridge happened to lie near the scene of occurrence seems to have referred to the cartridge in the Diary

of the 7th more with a view to cause enquiries to be made at the head office than as a record of its discovery and production.

(13). Such being the case, we have to see whether the Judge's theory of concoction could stand.

(14). The Judge after importing into his Judgment a lot of inadmissible matter such as the statement before the Police Assistant of one Ranga Rao who has not been called as a witness either by the Prosecution or by the defence, comes to an erroneous conclusion that the Police cartridge was neither found lying in the Kot-tige on the morning of the 6th nor was it produced before the Amildar on the evening of that date and that the alleged discovery is traceable to some information which was gathered by the Police between the 6th and the 8th June 1891 and which led to a vague suspicion that the 1st accused was in some way or other mixed up with the murder and must have taken a part in the commission of it.

(15). What that "some information" is, the Judge has not taken the trouble of mentioning. Of course he could not mention any as no information was in fact obtained between the 6th and the 8th June by the Amildar against the 1st accused connecting him either with the offence or with the cartridge in question. In the Diary of the 9th June 1891, written on the 10th idem the 1st accused's name is for the first time mentioned, but no attempt has been made to connect him either with the offence or with the cartridge. There is nothing against the 1st accused in the Amildar's Diary of the 10th June 1891. In the Diary of the 11th the only information that is recorded is that in the matter of the "loss of a gun" from the Balehonnur station; suspicion rests on 1st accused Ramanna. Even here the Amildar does not connect him with the murder or with the cartridge. In the Dairy of the 14th written on the 15th June the Amildar says, that he hears of the theft

of a gun and some cartridges also from the Balehonnur station which occurred some time ago, and that, if it be true, the head office should ascertain whether Ramanna had any connection with it. Even here the Amildar does not connect the 1st accused with the cartridges. Certainly a person that may be credited with fabrication, would not prepare Diaries of this kind. It was only on 21st June 1891 that the Police Assistant Superintendent ascertained from constable Narasinga Rao for the first time that the 1st accused had taken away some cartridges and caps from the Balehonnur station. If the Sessions Judge had gone through these Diaries carefully he would not have fallen into an error, which he has unfortunately committed in this case.

(16). The Judge's theory of concoction of the cartridges &c. cannot for a moment be supported on other grounds also. To uphold the theory of concoction the following conditions must necessarily exist:-

(a). A suspicion entertained and directed against a particular person or persons as being connected with the murder.

(b). A compact amongst the Amildar as head of the Police, the Hospital Assistant, the relatives of the deceased and a host of persons who have been examined as witnesses in respect of the find of the cartridge.

(c). A strong motive on the part of all these persons to introduce these articles with a view to create evidence against the accused.

(17). As already shewn none of the accused persons were suspected until the 9th June 1891. Even afterwards the 1st accused was not connected by the Amildar in any way with the offence. The relations of the deceased never said a word as to the accused persons being the probable murderers. Consequently there could be no object gained by fabricating the cartridge

inacid. Apart from the improbability of the Amildar, the relations of the deceased and the several witnesses conspiring to concoct the cartridge incident, it would be absurd to suppose that the Hospital Assistant who is quite unconnected either with the Police or with the relations of the deceased and who is not shewn by the accused to have had anything to do with the relations so as to induce him to become a party to the compact, would have associated himself with the supposed fabricators of evidence. It is therefore clear that none of the above conditions exist in this case to support the Judge's theory. On the contrary the way in which the record of the production of the cartridge and bullet has been made by the Amildar (if it shews any thing at all) shews that the Amildar did not exercise proper discretion in not getting a Mahazar drawn up for their production. Further the total absence of any hint thrown by the Amildar in his Diaries against the 1st accused so as to connect him with the cartridge strengthens the conclusion that the cartridge incident is not a fabrication.

(18). The theory of compact and concoction is further refuted by the fact of the Hospital Assistant complaining against the Amildar in his *Post mortem* Report. He says in the *post mortem* Report of the 9th June thus :—

“A cartridge and a bullet were found in the same verandah. They are neither mentioned in the Mahazar (copy) nor sent with it.” What does this tone indicate? Does it shew any conspiracy or common understanding on the part of the Amildar and the Hospital Assistant? Or does it shew a direct charge against the Amildar for omitting to mention in the copy of the Mahazar the production of the cartridge and bullet? (This is a vague expression which he has explained in his evidence.)

Certainly the tone adopted by the Hospital Assistant conclusively establishes the truth of the find and the production of the cartridge and bullet before the Amildar and the Hospital Assistant on the 6th June 1891.

In connection with the remark of the Hospital Assistant in the *post mortem* report, the Judge says in Para 14 of his Judgment as follows:—

The Hospital Assistant wrote in a complaining tone in his report of the 9th June that a cartridge and bullet had been found in the verandah but had neither been referred to in the copy of the Mahazar sent to him, nor forwarded to him along with it. This is incompatible with the supposition that the articles above mentioned were produced before the Amildar in the presence of the Hospital Assistant on the 6th. It further shews that the Hospital Assistant could not have heard it said that the cartridge had been found in the Kottige and the bullet in the court-yard.

It is not incompatible but quite compatible with the supposition that the Hospital Assistant was present at the time of the production of the cartridge and bullet before the Amildar on the evening of the 6th June 1891; and the Judge's reasoning is fallacious, because the Hospital Assistant's remark that a cartridge and a bullet were found in the same verandah necessarily implies that he had seen them himself prior to making this remark. This remark was made on the 9th June. Then what was the date on which he saw them? The Hospital Assistant swears that they were produced on the evening of the 6th June 1891 before the Amildar in his presence. He explains the expression "found in the same verandah" to mean "produced before him" in the same verandah. He says in his statement before the court:—

"Because the cartridge and bullet were produced in my presence, I referred to them in Exhibit J as having been found in the verandah."

As the Judge himself observed in court, this Hospital Assistant's knowledge of English is so meagre that he cannot express himself properly.

(19). No doubt there are discrepancies among the statements of witnesses named in the 12th para of the Judgment, but such discrepancies must be naturally looked for in a case like the present one, where witnesses come forward to depose to facts which they observed from different standpoints nearly two years ago at a place where regular chaos and confusion prevailed owing to the fearful murder that had taken place.

(20). As regards the broken tooth and the pieces of cartridge paper found on the morning of the 7th June 1891, the Judge observes in para 13 as follows :—

“The evidence offered in proof of this is not sufficiently strong and conclusive and the discovery, even if true does not seem to be of much importance.”

The Judge does not in plain terms look upon this incident also as a concoction, nor does he adduce any cogent reasons for discrediting the evidence regarding them. The same reasons as those above advanced respecting the truth of the finding of the cartridge apply with equal force to this incident. There is an additional fact which places the truth of this discovery beyond all possibility of doubt, which is the discovery of a broken tooth belonging to the deceased along with the pieces of cartridge paper. If the broken tooth was not actually found under the body preparatory to its removal for *post mortem*, it is impossible to conceive how, by whom, and with what object a broken tooth could have been got at and produced before the Amildar and the Hospital Assistant. The only irresistible conclusion is that the broken tooth was actually found at the time and place mentioned in the second postscript. When the finding of the broken tooth and the postscript are shewn to be beyond doubt, there is no reason why the finding of the pieces of cartridge paper included in the same postscript as that relating to the broken tooth should not be believed. If

the Judge had calmly and carefully considered these facts, he would not have hesitated to believe in the truth of this discovery. The truth of the postscript relating to the broken tooth and pieces of cartridge paper being established as above, it clearly shews that the time when the postscript relating to the cartridge and bullet was made must be prior to the morning of the 7th June.

(21) Now as regards the discovery of the plug in the wound, the Judge in para 11 of his Judgment says thus :—“I am not satisfied that the piece of wood in question was found in the body. The only testimony on this point is that borne by the Hospital Assistant and the cook Puttannaiya who are, in my opinion, very unsatisfactory witnesses.”

The reasons given above in respect of the truth of the discovery of the cartridge and of the cartridge paper and broken tooth also apply to this discovery, and the Hospital Assistant could have had no earthly motive in concocting this piece of evidence. The Judge seems to think that this piece of plug does not look like that of a Police cartridge. But he has overlooked the fact that plugs of Police cartridges are not all alike. This was pointed out to the Judge during the trial. If it should be presumed, as the Judge has erroneously done, that the piece of wood does not form part of the plug of a Police cartridge and that the Amildar and the Hospital Assistant nevertheless conspired to fabricate this piece of evidence, it can hardly be conceived that, intelligent as they were, they went out of the way to procure some plug other than that of a Police bullet in order to introduce it into the case.

All these circumstances considered, the reasonable inference is that the plug was really discovered in the wound as deposed to by the Hospital Assistant and the cook Puttannaiya.

(22) With reference to the defective character of the *post mortem* examination

commented upon by the Judge in Para 11 of his Judgment it may be said that the Judge having distinctly found as a matter of fact in para 10 of his Judgment that Krishna Rao died of a gunshot wound and that his death was homicidal and not either suicidal or accidental, the question whether a regular *post mortem* took place or not, becomes quite immaterial. However, there is enough of evidence to shew that a *Post mortem* examination, however perfunctory, did take place.

(23) In Para 11 of his Judgment the Judge says "The next question is what was the kind of weapon which could have inflicted the injury above described" and concludes "It is not easy to decide from the nature of the injuries external or internal whether the weapon used by the murderers was a gun or a revolver and whether the missile used was a solid bullet or an explosive bullet or mere shot. The materials being very meagre, the civil surgeon is naturally unable to give any positive evidence on this point."

The Judge having found as a matter of fact that the deceased died of a gunshot wound in Para 10 of his Judgment, it becomes quite immaterial to discuss what kind of firearm was used, *viz*, whether a gun or a revolver.

(24) It may perhaps be argued that a decision on this point is material to corroborate the statement of the approver who says that the double-barrelled gun Exhibit C was the gun used by the murderer. But the Judge himself admits that the Civil Surgeon cannot give positive evidence regarding the kind of weapon used by merely looking at the injuries.

The approver Sivaya swears that Exhibit C is the gun that was used and the accused have not shewn that the wound could not have been caused with a gun. So long as it is not shewn that the wound could not have been caused with a gun, the evidence of the approver must naturally be believed.

(25) Having shewn that the cartridge discovered at the scene of occurrence and that with which Krishna Rao was shot were Police cartridges, let us proceed to examine how and from where they were obtained and by whom they were used.

When the cartridge which was found at the scene of occurrence was produced before the Amildar on the evening of the 6th June 1891, that portion of the cartridge paper which contained the date figures had got torn leaving only a stroke which misled the Amildar to suppose that it was part of figure "5." Consequently the Amildar noted in the postscript that the cartridge bore date 5-9-1890 with the initials of the Reserve Jamadar. The date 5—9—1890 is evidently incorrect as no cartridges were dated and initialled on 5—9—1890 by the Reserve Jamadar. It is proved that the Reserve Jamadar dated and initialled cartridges only on one day *i. e.* on 16—9—1890. The Judge also holds that it is a fact. It is also proved and admitted by the Judge (in Para 15 of the Judgment) that out of these 200 cartridges, 4 reached the Balehonnur station on 3rd October 1890. Hence the fact that the Amildar put 5-9-90 instead of the proper date shews clearly that he was quite ignorant of the real date *viz* 16-9-90 on which date the Reserve Jamadar dated and initialled the 200 cartridges referred to above. This fact further refutes the theory that the incident of the discovery of the cartridge near the scene of occurrence is a concoction. For, if the Amildar wanted to connect the 1st accused with the murder by introducing a Police cartridge, he would certainly not have put the wrong date.

26. The theory of the Prosecution is that the 4 dated cartridges which reached the Balehonnur station on the 3rd October 1890 were clandestinely removed by the 1st accused along with 9 other cartridges that were in that station early on the morning of the 9th March 1891, with the connivance of constable Narasinga Rao who was

then in sole charge of the station and who was a friend of the 1st accused.

27. In Para 15 of the Judgment the Judge deals with the evidence respecting the loss of the gun and cartridges from the Balehonnur station, and observes: "It is thus obvious that there is no satisfactory proof as to the number of cartridges and caps which were in the Balehonnur station on the morning of 8th March 1891."

According to the rules, each Sub-station ought to have 20 cartridges and 20 caps in stock; and a register shewing receipts and expenditure thereof is also kept. Exhibit A—34 is the register so kept in the Balehonnur station by the 30th witness Sheik Mohadien who was then in charge of that station. It clearly shews that there were two guns, 20 cartridges and 20 caps at that station on the 8th March 1891 when he went to Chickmagalur on duty, leaving constable Narasinga Rao (32nd witness) in charge of the same. Besides the entry in this Register, the evidence of Deputy Amildar Alasingriengar (28th witness), Jamadar Lakka Naik (29th witness) and Daffedar Sheik Mohadien (30th witness) clearly shews that there were two guns in the Station on the morning of the 8th March 1891; while the last mentioned witness, the Daffedar, corroborates the entry in A—34 that there were 20 cartridges and as many caps in stock on that date. The first statement of constable Narasinga Rao that the Daffedar had, three days prior to 8th March 1891, given one of the guns to Yakub Alli is admitted to be false by the Judge himself. The fact that the gun was thrown into the river as afterwards stated by constable Narasinga Rao before the Police Assistant and that it was accordingly discovered in the place shewn by Narasinga Rao is beyond all doubt. That on the 12th March 1891, the Jamadar and the Daffedar found 13 cartridges and 16 caps missing cannot be doubted as it is entered in Exhibit A—34 and initialled by the Jamadar on that date. It is in evidence that no car-

tridges were lost then in any other station of the Koppa Taluk including the Yedehalli Sub-Taluk.

28. But the Judge observes in Para 15 of the Judgment, "The evidence offered in proof of the allegation that no cartridges were lost in any other station is of the weakest kind and does not commend itself to me as conclusive. It is conceded that cartridges are used for such purposes as cleaning carbines and destroying wild beasts and rabid dogs. The record shews that very little check is exercised on the use of cartridges. It was quite possible that the cartridge picked up in Krishna Rao's Kottige and the one with which Krishna Rao was shot dead came from some other station than Balehonnur."

It must be pointed out that the 1st accused called for the registers of receipts and expenditure of cartridges and caps from all the stations of the Koppa and Yedehalli Sub-Taluks, but he and his counsel did not advisedly put them in evidence as they contained no entries of any loss of cartridges and caps. Hence it is clear that no cartridges were lost in any other station than Balehonnur.

29. The Judge disbelieves the evidence of constable Narasinga Rao that the 1st accused took away the cartridges and caps on the morning of 9th March 1891. The cartridge that was found at the scene of occurrence and which is shewn to be one of those belonging to the Balehonnur station strongly corroborates Narasinga Rao's statement that the 1st accused did take away the cartridges. Moreover, there is no motive either alleged or proved on the part of Narasinga Rao to falsely accuse the 1st accused. On the contrary, it is evident from Narasinga Rao's statement that 1st accused was a friend of his. Exhibit B—18 which is the petition of the 1st accused dated 12-3-91 in a way corroborates the statement of constable Narasinga Rao that the 1st accused left the station with the car-

tridges saying he would go to Chickmaglur in as much as the 1st accused in that petition says that he arrived in Chickmaglur on that date i. e. 12th March 1891.

Thus it will be seen that the present statement of Narasinga Rao is perfectly true.

The observation of the Judge viz "If his first story was a concocted one where is the guarantee that his second statement is not likewise a fabrication?" is therefore not correct and he should have acted on the latter statement which is proved to be true.

30. Again the Judge observes:—

"The 1st accused is an astute and intelligent Brahmin and has long been employed on detective duty by reason of his skill, being admittedly much above the average. He did not thrust his hand into the leather case in the dark and help himself to a portion of its contents. On the contrary, there was a lamp burning before him. He poured all the 20 cartridges on the ground. He knew that cartridges with date and initials were more easy of identification than plain cartridges. The latter were more numerous than the former and yet it is alleged that he took four dated and initialled cartridges and restored to the leather case seven undated and uninitialled cartridges. I cannot persuade myself to believe that he was so stupid as he is represented to have been. The whole story is so beset with improbability that I do not hesitate to discard it as utterly unworthy of credit."

Answer. The dated cartridges were new and efficient ones freshly supplied. As a Policeman he knew their efficiency and therefore took them. Moreover, he could not possibly have then anticipated that while returning from the scene of murder, he would stumble and fall down and drop one of the dated cartridges.

31. From the above it is clear that the 1st accused clandestinely removed the cartridges from the Balehonnur station and that the cartridge discovered near the scene of occurrence is one of them.

THE EVIDENCE OF H. NAGAPPA DISCUSSED.

1. The Judge deals with the evidence of this witness in paras 43 to 54 both inclusive, and the facts which he believes to be true are as follow :—

2. *Para 43 of Judgment.*—I shall now deal with the evidence of Honné Devasthan Nagappa to whom passing allusion has already been made. He was formerly a servant of the Kutugode family. I don't believe the 4th accused's assertion that this witness did not in any way interest himself in Sidlé Nanjunda Bhatta's case and in the false evidence case ; the documentary evidence on this point is clear and conclusive. A—36 is an Account Book kept by Nagappa. If true, it shews that Nagappa was at Chickmaglur and Shimoga during the progress of both the cases, and spent moneys on account thereof. This book was produced before the Yedehalli Munsiff by the 4th accused himself. The latter explains that he received it by post after he had filed his suits against Nagappa, that this is a false statement is evident from the testimony of the Pleader, to whom he delivered the book for production in court. He did not tell his Pleader that the book had been sent to him by post. He did not condemn the book as a completely false record manufactured by Nagappa for a sinister purpose. On the contrary, he relied upon the book as proof of his allegation that Nagappa had not accounted for the 600 Rs. drawn on the Hundi, which had been forwarded to him from the Shimoga jail. There is not a particle of evidence to substantiate the assertion that the book was received by post. Nagappa states that he gave the book to the 4th accused's son Krishnabhatta when he settled accounts with him. It is true that Krishnabhatta denies this allegation, but I am not prepared to believe the denial. About a month after the disposal of the false evidence case, the 4th accused admittedly wrote letter A 70 to his

son, the 5th accused, from the Shimoga Jail. That letter asked the 5th accused to take from Nagappa an account of moneys spent by him during the preceding 18 months as well as his (Nagappa's) own accounts. The 4th accused again wrote from the Shimoga Jail on the 2nd May 1890 (see letter A 71). This letter asked 5th accused to take back "Sircar records" from H. Nagappa and to settle accounts with him. Letter A 61 which was a notice issued to Nagappa by the 4th accused is still more explicit. It calls upon Nagappa to render an account of moneys spent during the pendency of the 4th accused's case. The 4th accused admits the genuineness of this note. In the Account book produced by the 4th accused, I find that there are entries almost corresponding to the entries of credit and debt recorded in Exhibit A 36. It shows that a settlement of accounts did take place upon the basis of A 36. As regards the entries in the 4th accused's accounts no proper explanation is forthcoming. There is also some oral evidence which goes to supplement the documentary evidence I have thus noticed. I am perfectly satisfied that Nagappa did go to Shimoga and Chikmagaloor and take interest in the two criminal cases which were tried against the 4th accused in September 1889, and February and March 1890.

(1) *Para 44 of Judgment.*—"I am willing to believe that there was some laxity on the part of the Lock-up officials and guard and that occasional visits to the Lock-up by Nagappa were quite possible. Nagappa was probably one of those who took cooked food to Singabhatta's co-prisoners."

(2) "Nagappa seemed to have had an opportunity of seeing the 4th accused in the Lock-up and speaking to him."

(3) "Exhibit A 46 contains inherent and indisputable proof of the falsity of the 4th accused's assertion."

(4) "Exhibit A 46 was prepared in the Chikmagalur Lock-up during the pendency of the false evidence case and that there is no doubt that it was delivered to Nagappa by the 4th accused in the Lock-up."

(5) "It is thus clear that Nagappa did see the 4th accused and talk to him in the Lock-up about the charge of forgery and about other matters."

(6) "It is a fact that Nagappa sent word to Sivaiya and to the 2nd accused as desired by the 4th accused and that they came to Chikmagalur."

4. *Para 45 of Judgment.*—"It is possible that Kencha Hanuma was doing the 4th accused such little favors as stealthily importing into the Jail, snuff and other eatables for him."

5. *Para 49 of Judgment.*—"Nagappa went to Shimoga on receipt of letter A 61 and saw the 4th accused in a certain temple."

6. *Para 50 of Judgment.*—"Afterwards (*i.e.*, after the above interview) Nagappa was dismissed by Singabhāṭṭa from service."

7. *Para 51 of Judgment.*—"Exhibits A 46, A 47, A 50, A 51, A 52, A 53, and A 54 are the official papers, which were delivered to Nagappa by the 4th accused in the Chikmagalur Lock-up."

8. *Para 51 of Judgment.*—"I am of opinion that Kencha Hanuma of the Shimoga Jail has not told the truth. I strongly suspect that there was some laxity in the management of the Shimoga Jail and that unauthorized communications and interviews between the 4th accused and his friends thus became quite possible."

9. In para 44, the Judge says that the incident he (Nagappa) deposes to regarding the facts and circumstances connected with A-46 is quite a different one from what he deposes to regarding the compact

relating to the murder of N. Krishna Rao between the 1st and the 4th accused, which took place in the Chickmaglur lock-up and tries to discredit the evidence of this witness regarding the above compact. But in doing so, the Judge is in error. In weighing the evidence of this witness regarding the compact, if the Judge had taken into his calm consideration the state of feeling of the 4th accused against the deceased when in the lock-up and the outburst of that feeling which resulted in the preparation of A—46 within the precincts of the Lock-up and also the deliberate manner in which he delivered it to witness Nagappa without the knowledge of the Lock-up authorities with directions to send for the 2nd accused Narsaiya and approver Sivaya in order to take immediate steps in the matter of preferring a charge of forgery against the deceased, the question why this attempt was given up entirely (for admittedly no such complaint was ever filed) would naturally have suggested itself to him and he would not have said that the facts immediately preceding had no connection whatever with the facts relating to the compact. On the contrary, he would have, without any hesitation whatever, believed the statement of this witness in its entirety instead of believing the greater portion of his statement and disbelieving him in this respect on untenable grounds as will be shown further on. In truth, there is a very important link between the fact and circumstances connected with Exhibit A 46 and the plot of murder. It is this. If the 4th accused had not conceived the idea of taking away the life of the deceased and sent for the 1st accused and entered into compact with him, certainly the attempt to bring a charge of forgery against Krishna Rao would not have been given up seeing that he had advised the 2nd accused so far back as 1888 to apply for a copy of the petition alleged to have been forged and sent by the deceased to the Dewan's Office. If this change of mind

on the part of the 4th accused was not due to a more serious plot against the life of the deceased, there is no other explanation forthcoming as to why that attempt was dropped. The 4th accused far from admitting that Exhibit A 46 was delivered by him to Nagappa in the Chikmagalur Lock-up and explaining how and why he delivered it to Nagappa and what made him to change his mind afterwards, he like a true and dishonest culprit audaciously attempted to explain by saying that he had prepared Exhibit A 46 and left it in the Hariharpur Mutt some months before he was brought to Chickmagalur in Sidlé Nanjundabhatta's case, and made an insinuation that the witness had improperly got possession of it, that this assertion of the 4th accused has been proved to be wholly and absolutely false, is admitted by the Judge himself. Beyond this false explanation by which the 4th accused attempted to mislead the court as to the time when and the circumstances under which Exhibit A 46 was written by him and delivered to Nagappa, neither the accused nor their counsel nor the Judge have offered or suggested any other explanation. In the absence of any other explanation the only reasonable conclusion is, as deposed to by this witness, that before the arrival of the 2nd accused and Sivaya, who were sent for at the request of the 4th accused, the latter changed his mind and designed the murder of N. Krishna Rao.

10. In the same para of his Judgment, the Judge says "the question is whether the statement of Nagappa regarding the compact between the 1st and 4th accused is probable and reliable. Nagappa is the only witness who deposes to this compact."

Answer. Nagappa's evidence on this point is strongly corroborated by the otherwise unexplained conduct of the 4th accused in dropping the attempt to bring a charge of forgery against the deceased and it is therefore highly credible.

11. Again the Judge says in the same para "I shall shew furtheron that he is now on terms of the bitterest animosity with his former master, the 4th accused. I consider it most unsafe to place any reliance on his evidence. His subsequent conduct seems to belie his assertion."

Answer. It is very much to be regretted that this witness who has been admitted by the Judge to have made a true statement so far, should be considered to be an unworthy witness simply because misunderstanding has arisen between him and the 4th accused. It must be borne in mind that but for this misunderstanding an old and trusted servant of the 4th accused would never have come forward to speak out the unpleasant truth. Therefore, animosity should be altogether discarded from consideration in weighing the evidence of this witness. That his subsequent conduct does not in the least belie his assertion will be shewn by what follows.

12. In para 44, the Judge says "that it may be noted here that Nagappa did not mention a word before the Police about the 1st accused coming to him the same day and asking him either for a revolver or for money to buy one and his replying that he would see about it the next day."

Answer.—The witness has stated this both before the Committing Magistrate and the Sessions Judge. This is not such an important omission as to justify his evidence being discredited especially when we take into consideration that witnesses are not examined and cross-examined before the Police in the same manner as is done in Courts of Law.

13. Furtheron the Judge observes, "Nagappa was again reminded of his promise on the following morning. He then told the 1st accused that he could not get him a revolver or pay him money for the purchase of one." This statement is in conflict with the statement made by the

witness before the Police. He then alleged that he did not make a refusal but simply said that he had not sufficient money with him and that he would think over the matter of buying a revolver for the 1st accused."

Answer.—His statement before the Police does not contradict his statement before the court, and in substance it amounts to a refusal. Moreover, some such discrepancies must necessarily occur when a witness speaks to facts which occurred some months ago.

14. Again in the same para the Judge observes thus: "What followed is most remarkable. Nagappa says that this question was altogether dropped, that is to say, neither the 1st accused nor the 4th accused ever told him a word about the revolver either at any of his subsequent meetings with those persons or on the way back to Shimoga from Chickmaglur. Is this consistent with probability? I think not. Would not the 4th accused have asked him whether he had bought a revolver for the 4th accused? Would not the 1st accused have again asked him for the revolver or for money for buying it? Would he not have complained to the 4th accused that Nagappa had not got him a revolver. Is not all this sufficiently strange to justify his story of the compact being discredited?"

Answer.—With reference to the above, it may be pointed out that there is no improbability whatever in the statement of Nagappa that after his refusal to buy a revolver or to pay money, neither the 1st accused nor the 4th accused spoke to him about it afterwards, for, the 1st accused may naturally be expected to have seen the 4th accused and acquainted him with what Nagappa had said to him. It may also be presumed that the 4th accused having learnt of Nagappa's attitude towards his design, might have thought it

prudent not to talk to him any more on the subject. This presumption is strengthened by the statement of Sivaiya that when he had an interview with the 4th accused in the lock-up subsequent to the interview between the 1st and the 4th accused, the latter told him that the 5th accused would supply weapon and money for carrying out the design. It is on these slender grounds that the Judge tries to discredit the evidence of this witness regarding the compact. But the prosecution has proved beyond all possibility of doubt that there was much laxity on the part of the lock-up officials and guard, that this witness had free ingress and egress at the lock-up; that the witness had ample opportunities of seeing the 4th accused and talking to him; that the 1st accused was in Chickmagalur during February and up to 7th March 1890; that the 1st accused was coming to the lodgings of the 4th accused's people and taking his meals there; that the 1st accused accompanied the 5th accused and Seshabhakta when they went to Kutugode about the 7th of March 1890; that the 4th accused tried his best to avoid coming to Chickmagalur in prison dress. (Vide Exhibit A 44 and Medical certificate B 15); that the 4th accused was smarting under the trouble and annoyance given to him and the disgrace brought upon him by the deceased; that the 4th accused goaded by these feelings to entangle the deceased, prepared Exhibit A 46 and gave directions to Nagappa to send for the 2nd accused and the approver Sivaiya; and that notwithstanding the arrival of the 2nd accused and Sivaiya at Chickmagalur according to the 4th accused's instructions communicated to them by Nagappa, the complaint of forgery was not filed against Krishna Rao; all these clearly and conclusively prove the truth of Nagappa's statement regarding the plot in the lock-up against the life of the deceased. It may also be urged that as no complaint of forgery was preferred against the deceased and that he was actually murdered before the 4th ac-

cused's release from Jail, the probabilities of the truth of the statement of Nagappa regarding the plot in question becomes fully confirmed. Is it not sufficiently strange that notwithstanding these proved facts, the Judge should have made up his mind to discredit the compact sworn to by this witness?

15. In para 45, the Judge observes:—
“Exhibit A 44 is a Nagari letter. The 4th accused denies its genuineness. There is no satisfactory evidence to prove his handwriting. After all, there is not much in that letter. It simply asks that a rupee be sent through Jail peon Kencha Hanuma for the purchase of snuff &c., and proceeds to say that the 4th accused will join the Hospital and try to prevent his being sent to Chickmagalur.

Answer.—There is intrinsic truth in the contents of Exhibit A 44, which establishes its genuineness. The Judge himself furtheron admits in his judgment that Kencha Hanuma mentioned in Exhibit A 44 was stealthily importing snuff and other eatables into the Jail for the 4th accused. The Medical certificate B 15 also establishes the truth of the contents of A 44. Further, Exhibit A 36, which contains entries shewing payment of cart-hire &c., for travelling from Shimoga to Chikmagalur on that occasion confirms the truth of Exhibit A 44, which asks for a cart to be kept ready for going to Chikmagalur in the event of the 4th accused being forced to go. The Nagari writing in A 44 has been proved to be in the handwriting of the 4th accused not only by the evidence of Nagappa but also by that of Sadasivaiya (34th witness) and Aigala Venkataramanaiya (36th witness). The Judge admits that there is not much in Exhibit A 44. Would any body attempt to forge such an unimportant letter?

16. In para 48, the Judge says:—
“Nagappa states that shortly before the date of the enquiry held by the Assistant Superintendent of Police in September 1891,

the 1st accused came to him and took him to the house of the 5th accused, a circumstance which he did not mention in his statement before the Amildar."

Answer. — It may be said here that as a matter of fact, 1st accused did take him before the Police Assistant to give evidence against Dharnaiyasetti and that he did give evidence accordingly is apparent from the statement of Nagappa before the Police Assistant himself dated 26th September 1891. The Amildar did not take down any regular or exhaustive statement from Nagappa, but he merely embodied in his confidential dairy of 27th July 1892, an abstract of the information collected by him. Nagappa in his evidence before the Sessions Court (during the re-examination) clearly says that he made an oral statement before the Sringeri Amildar meaning thereby that the latter did not take down his statement in writing. The Amildar also says in his examination-in-chief that he did not record the statement of H. Nagappa and others. Therefore it affords no ground for disbelieving his evidence on that point.

17. In para 49, the Judge says:—"On receipt of letter A 61, Nagappa went to Shimoga and saw the 4th accused in a certain temple. He makes the absurd statement that the 4th accused sent him that letter or notice because he had failed to meet the 4th accused at Shimoga on the date of his discharge from prison."

Answer. — Why he considers this statement to be absurd the Judge does not say. There is the statement of Nagappa to the effect that he remonstrated with the 4th accused for having written such a letter although he had delivered account A—36 to his son Krishnabhatta. Whereupon the 4th accused told him that he wrote it because Nagappa had not waited upon him on the date of his release. That the 4th accused is a man capable of behaving in this way cannot be questioned.

Vide Summary of the evidence prepared by the Police Assistant in the case against Dharnaiya Setti (Criminal Miscellaneous Case No. 31 of 1891.)

18. Furtheron the Judge says:—"On that occasion the 1st accused is said to have presented himself before the 4th accused and begged him with tears in his eyes to pay him the balance of reward to which he was entitled. The 4th accused refused to pay it on the ground that the 1st accused had improperly gone to Kutugode and spoiled the whole affair. That this demand and refusal is an after-thought, is evident from the admitted fact that Nagappa did not make any mention whatever of it in his examination before the Police."

Answer : This statement of Nagappa is not an after-thought. He did casually mention this fact to the Head Quarter Inspector on the 29th September 1892, but was then unwilling to give a statement before him for fear that the 4th accused's wife, who was said to have been present at the time of the conversation would be dragged to court; that Nagappa did make such a statement before the Head Quarter Inspector in the body of the special diary of 29th September 1892 submitted by him in this case. But when he was examined on oath by the Committing Magistrate Nagappa found himself bound to produce A—61 and state the truth. Beyond this futile reason, the Judge was not able to advance any tangible ground for discrediting the statement of Nagappa on this point.

19. In para 50, the Judge says:—"Nagappa was afterwards dismissed from service by the 4th accused, who further instituted two suits against him. He ascribes this hostile attitude of the 4th accused to his (Nagappa's) refusal to give false evidence against certain persons as desired. He states that he was not told in what way he should assist the 4th accused and what evidence he was to give. This differs materially from his statement before the Police that he was asked to forge certain papers and to testify to their authenticity.

*Answer:—*There is not the slightest difference between the statement he made before

the Police and that which he has made before the court in this respect. In fact when the court asked him about it he remembered and said "yes. I admit having stated before the Police that he asked me to forge papers and depose to their genuineness, that is a fact."

20. Para 51 of the Judgment deals with the mode of production and with the genuineness of Nagari letters produced by H. Nagappa before the Head Quarter Inspector. It is enough to say that these Nagari letters, unimportant as they are as admitted by the Judge himself and containing various matters relating to the family concerns of the 4th accused quite immaterial to the present enquiry, could not have been forged by any one and that too in a language which the 4th accused professes to be totally ignorant of. Granting for the sake of argument that these letters were forged as the Judge groundlesely suspects them to be, what about Exhibit A—75 which is also a Nagari letter written by the 4th accused to the Swami of the Hariharpur Matt about the Matt affairs and which was produced by the agent of the Matt for the purpose of comparison before the Koppa Amildar? Is this also a forgery? Certainly not, this letter does not contain a particle of matter relevant to the present case. The 4th accused recklessly tells barefaced lies when he says that he does not know how to read and write Nagari. He studiedly ignores all knowledge of Nagari lest he should entangle himself on some point or other. These Nagari letters were produced by the very Nagappa who produced a number of other documents whose proper custody was equally denied by the 4th accused. But the Judge has, in very strong language, characterized the 4th accused's denial as absolutely false. The handwriting of the 4th accused in these Nagari letters has been proved by the evidence of this witness and that of Aigala Venkataramanaya and Sadasivaiya. Of these letters Exhibit A—49 contains re-

ference to the 2nd accused to the effect that Sasimane Narasaiya should not be neglected (ಶಿಮನೆ ನರಸೈಯಗೆ ಬಿಡಬಾರದು.) The Judge's interpretation of this sentence is quite unnatural. It can never mean that the 2nd accused should be pressed to repay the debt due by him. Further, in this Exhibit the 4th accused tells his son to sell off at once the gun at home and that it should not be kept. As this Exhibit was written and delivered while the 4th accused was in the Chickmaglur Lock-up in March 1890 as deposed to by Aigala Venkataramanaia, 36th witness, the reference to the gun has a very close connection with the plot to murder Krishna Rao, and it leads to an inference that the 1st accused having promised to despatch Krishna Rao by means of a firearm, the 4th accused was anxious to have the gun at home disposed of before the murder is actually committed:

21. *Para 52.* The Judge says:-“That Nagappa exaggerates matters, when he says he received as many as 20 or 30 chits from the 4th accused during the short time of two or three months that he was at Shimoga. He told the Police that he had destroyed all the chits. He now says that it was a false statement and that he delivered all the chits to the 5th accused. Such contradictory statements clearly prove that they are made recklessly and without any foundation.”

Answer. A reference to this statement before the Police will shew that “the chits” he said he destroyed were those relating to supplying eatables &c. and not the chits referring to family or other concerns and secret matters of the 4th accused to be forwarded by the witness to his sons at Kutugode. This has been explained by Nagappa himself in his re-examination before the Sessions Court.

22. *Para 53.* The Judge says “Nagappa asserts that he once paid the 1st accused Rs. 10 at the request of the 4th accused. It is noteworthy that he made no such statement before the Police. It is an important matter and

would not have escaped his notice when he was examined by the Police. Exhibit A 36 contains an entry of Rupees 10 against some persons whose name has been scored out so carefully as to make the deciphering of it an impossibility. This book was in the Munsiff's Court from which it was obtained after Nagappa's examination by the Police. He finds a scored out entry in it and taking advantage of it, endeavours to shew that the name scored out is that of the 1st accused. But there are some strokes visible which makes his assertion highly improbable."

Answer.—This entry of payment of Rs. 10 found in Exhibit A 36 refers to a transaction which took place two years before the murder. This entry is only important as shewing the friendly relations between the 1st and the 4th accused. The 1st accused admits that about the time this payment was made at Shimoga, he had gone to that place. The Judge admits that A 36 was obtained from the Munsiff's Court after Nagappa's examination before the Police. It is after going through the accounts before the Committing Magistrate, the Prosecution questioned the witness to explain what the scored out portion contained. Whereupon, the witness gave the explanation. A 36 was in possession of the 4th accused and he produced it in the Munsiff's Court in the suit brought by him against the witness. Considering the statement of the 4th accused that he was not acquainted with the 1st accused, but had seen him only once three or four years ago, notwithstanding the ample evidence on record that 1st accused has all along been very intimate with the 4th accused, shews very clearly that he scored out the name of the 1st accused when producing it with the object of destroying the evidence that might go against him in the event of this case coming to light. The last letter "ॐ" of the 1st accused's name is faintly visible and the strokes do not indicate anything so as to justify the judge's inference. All the entries without a single exception of credits and debits shewn in the Exhibit A 36 have been incorporated in the 4th accused's Day Book B-36. The 4th accused does not explain nor

has he proved what the scored out portion contained. In the absence of any such proof or explanation, Nagappa's evidence must be believed.

23. In *Para 54* the Judge says:—"Nagappa has had dealings with Seshabhatta."

Answer:—It is not proved that he had money transactions with Nagappa in more than one instance and even this transaction took place long after Nagappa gave his statement before the Police. The Judge observes "that Nagappa has shewn an extraordinary amount of interest in the investigation of this case by the Police. He produced one Bellaiya and was present at the search of his house. He went to Shimoga and was present when evidence was being collected by the Police. He was likewise present when several other important witnesses were examined in other places by the Police. My impression is that he has been throughout actively helping the Police in the making up of this case."

Answer:—Such a conduct is perfectly consistent with motives of honesty and truth. In a place like malnad, where each house is a village in itself and situated in isolated localities, where crimes of every description can be committed in broad daylight without fear of detection and where the 4th accused is all influence and terror, no one except those that know the secrets of his doings and who have fallen out with him, could be expected to give information to the Police. Therefore there is nothing extraordinary or suspicious in the conduct of this witness to discard his evidence.

24. Again the Judge in the same para observes. "For eight months after his dismissal, he (Nagappa) never opened his mouth. Subsequently there was a complete change in his attitude owing to the suits filed against him by the 4th accused and to the attachment made therein. In answer to those suits he produced a Patti or discharge bearing the attestation of Ven."

katachellaiya. He is the writer of the sale deed executed by Sivaiya in favor of Seetarambhatta. He is one of those that sent up a petition so far back as March 1892, and yet he did not testify to the 4th accused's complicity in this crime until so recently as the end of July 1892."

Answer:—In fact the 4th accused filed suits against Nagappa only on the 11th March 1892 and attachments were taken some days afterwards. Therefore there was no reason to expect this witness to come forward to disclose 4th accused's secrets prior to that date. The truthful character of his evidence cannot be affected by Venkatachellaiya's attestation to a patti produced by him in the suit filed by the 4th accused, nor by Aigala Venkataramaniya being a witness for him in those suits; nor by Nagappa being the writer of the sale deed executed by Approver Sivaiya in favor of Seetarambhatta, who is a witness for defence, and who has sworn to the *bona fides* of the sale deed.

25. The Judge goes on to say, "Such then is the man upon whose evidence the court is asked to hold that there was a compact between the 1st and 4th accused as regards the murder and that certain other circumstances exist which show that the accused 1 to 5 committed the murder in pursuance of that compact. In my judgment, it is positively dangerous to attach even the slightest value to the evidence of this description."

Answer.—We have now come to the end of the chapter in which the Judge has tried his best to set forth the several circumstances, which he considered as damaging to the trustworthiness of this witness. But it has been shewn that none of those circumstances could be accepted as a valid ground for disbelieving his evidence. In the whole of his remarks the Judge has confined himself solely to the recent misunderstanding between the witness and the 4th accused and no misunderstanding

is either alleged or proved between the witness and the other accused. One may naturally ask what evil motive has this witness to depose against the other accused? The only answer is that there is none whatever. It would be a most unnatural presumption to say that because the 4th accused filed two civil suits, the witness invented such an array of facts and circumstances disclosing a heinous crime not only against the person between whom and himself there is a recent misunderstanding, but also against other innocent persons. The only reasonable conclusion is that owing to the recent misunderstanding the witness has disclosed the true facts and circumstances connected with the crime which otherwise would have remained a hidden secret.

26. The Judge further observes. "The Assistant Superintendent of Police has given him a very bad character. This officer, says the witness, is a notorious and great hand at giving and getting up false evidence.

Answer.—What Mr. Dunning says in his evidence before the Court is that *especially as Singabhatta's servant* the witness was considered notorious. This opinion he was led to form regarding this witness on the occasion in which the accused tried to turn this case against Dharanaiya Setti and in which the witness who was still a servant of the Kutagode family was induced and pressed to tell a falsehood. But each case must be judged by its own merits. Simply because a witness once told a lie it does not at all follow that his evidence should be discarded in all other matters in which his evidence may be perfectly and fully corroborated. The duty of a Judge is to see whether in the particular case the facts and circumstances spoken to by such a witness are true irrespective of the fact of his having told a lie in a previous instance. It would indeed be positively dangerous to the cause of justice to reject the truthful evidence of a witness on the ground that he had once told a lie.

APPROVER SIVAYA'S EVIDENCE DISCUSSED.

1. It is proved that the approver has had dealings with the 4th accused for the past 25 years, that he was his Suttige Kula and was on very intimate terms with him. He was also aco-accused of the 4th accused in the Karkal case and gave evidence in his favor in Sidlé Nanjunda Bhatta's case in which the 4th accused was convicted.

2. Misunderstanding arose between him and the 4th accused only towards the end of July 1892.

3. The Judge does not say that the evidence of the approver is not sufficiently corroborated. But he has based his Judgment on surmises and disbelieved the approver's evidence. It is therefore necessary to shew that the approver's evidence is amply corroborated and is entitled to credit.

4. His evidence is corroborated in the following particulars:—

(1) Approver says at page 2 of his deposition:—"I was examined as a defence witness on behalf of Singabhatta in the case brought against him by Sidlé Nanjunda Bhatta when the 4th accused sent for him to the lock-up and spoke to him regarding the "Sandalwood plot."

Nagappa corroborates him in page 5 of his deposition. (Vide also the statement of Sivaiya as a defence witness in Criminal Case No. 41 of 1889.)

(2) Sivaya says that he went to Shimoga and attended the Court when the appeal was heard; and that 5th accused and Seshabhatta had come with Aigala Venkatramaniya. (Vide page 5 of his deposition.)

Nagappa corroborates him (Vide page 5 of Nagappa's deposition.)

NOTE.—Aigala Venkataramaniya says that he does not remember whether he had been to Shimoga in connection with the ap-

peal preferred by the 4th accused. It is likely that this witness has committed a mistake but not Sivaya who has been consistent throughout.

(3) "Krishna Bhatta sent for me to Kutugode and told me to go to Chickmaglur saying that his father had sent for me. I accordingly went to Chickmaglur, saw Singabhatta in the Jail who told me about despatching Krishna Rao." (Vide page 6)

Nagappa corroborates Sivaya in this respect. (Vide page 11)

(4) Police Ramanna (1st accused) was in Bolarameshwara temple then and Sivaya saw him there. (page 6.)

Nagappa confirms his statement. (page. 8)
Aigala Venkatramanaiya also corroborates Sivaya in this respect. (page 95.)

That 1st accused was in Chickmaglur at that time is further proved by the Duty Register of the Koppa Head Station for February and March 1890. (Vide Exhibit B 10.)

(5) Sivaya says Venkatgiri brought the chit Exhibit B from the 5th accused and asked him to go to Kutugode. He accordingly went with Narasiya and Venkatagiri. (page 9.)

The genuineness of the chit has been admitted by the 5th accused and this is a sufficient corroboration.

Note.—Venkatagiri is an interested witness and is still in 4th accused's employ.

(6). Sivaya says that 1st accused Ramanna was present in kutugode house when he went with the two others. (Page 10).

The 1st accused has admitted that in October 1890 he had been to kutugode, Nemmar and other places.

Exhibits A 57 and B 8 shew 1st accused's movements in September and October 1890.

The Duty Register of the Koppa Head Station (Exhibit B 11) shews that about this time 1st accused was away from the station on special duty connected with another pending case of murder at Kutugode as also the Sollebail murder case.

(7). Sivaya says that when he went to Shimoga for the second time with the 5th accused he went to Rambhatta's hotel and that he heard Bellandur Ramu and 2nd accused Narsaya talking together. (Pages 15 and 16).

Rambhatta corroborates him when he says that Sivaya had come and that Narasaya and Bellandur Ramu were coming to the hotel.

(8). Sivaya says, he and 5th accused went to Channabasappa's house at Shimoga and that the 5th accused paid Rs. 80 saying that Krishna Rao was expected to visit Shimoga for Mr. Collins' appeal and that he should get the thing done as promised. (Page 17.)

The Post card, Exhibit B 6, shews that the 4th accused had something to do with Chennabasappa in connection with the deceased Krishna Rao.

(9). He and 2nd accused Narasaya used to visit Vagale Venkatachallaya's house, where one day Narasaya abruptly said that Kutugode boys were thinking of killing Krishna Rao with a gun or sword. (Page 18.)

Patel Balaiya *alias* Thimmappiya corroborates him.

Vagale Venkatachellaiya also corroborates. (Vide page 112.)

(10) Sivaiya says that after he told Narasiya to go to Venkatachallaiya and take him to Yedehalli, he went to Venkatachallaiya at Sringeri and asked him if Narasiya had come. (Page 19).

Vagale Venkatachellaiya corroborates. (See page 119.)

(11) He was then told by Venkatachallaiya that he had given a chit to Narasiya to be delivered to the Kandhari. (page 19.)

Venkatachellaiya corroborates. (page 113)

Note. The side plots were thought of by 2nd accused Narasiya and others as 1st accused Ramanna could not come as he was moving to and fro in connection with his transfer to Kadur, leave applications, &c. (Vide Exhibits B 16 to B 21.)

(12) Sivaiya's son fell ill, he went to Sringari, took the Pandit and went to Kankatlu; Venkatachellaiya visited Sivaiya's house on Wednesday and Friday; that Sivaiya left his house in the evening of Friday, the day of murder and returned late i. e. at 9 or 9 30 P. M. and drank *Akkachu*, &c. (Pages 20, 21, 22, 23 & 24.)

Puttannaiya corroborates. (Vide Exhibit B 3.)

Vagale Venkatachellaya also corroborates him.

NOTE. The Hindupur Pandit Bhaskarappa was examined by the Police and was bound over to appear before the court. The Committing Magistrate also issued summons which was returned unserved as the Pandit was said to have gone to the Madras Presidency.

Lachaya who was cited as a witness by the prosecution was not examined as he was gained over by the adverse party.

13. Sivaya says that on the evening of the 5th June 1891 he went to Sasimane as promised to 2nd accused on the previous evening and that there he met the 1st, 2nd and 3rd accused and Bellandur Ramu &c. (Page 25).

Maler Subba (10th witness) corroborates when he says that 1st, 2nd and 3rd accused disappeared with a gun from Kutgode on the night of the 3rd June 1891; that

B. Ramu left Kutugode early on the 5th June 1891 having been absent from Kutugode on the previous afternoon and that they were not again seen at Kutugode till the morning of the 6th June 1891. (Pages 59 and 60).

Vagale Venkatachellaya also corroborates.

The 1st accused admits that he went to Kutugode about that time. No evidence has been adduced by him to prove that he was at Kutugode on the day of occurrence and that he did not go out of that house on Thursday and Friday. (Vide also 1st accused's statement before M. Narayana-iyangar Exhibit B—23.)

14. Sivaya's description of the scene of murder (Pages 27, 28 and 29), corroborated by the evidence of Dhorsawmy Iyengar, Krishnamachari and Puttannaiya not only as to the relative positions of the murderer and the deceased, but also as to other circumstantial details given by Sivaya.

15. Sivaya says that he went to Kutugode sometime after Krishna Rao's murder and spoke to 5th accused who said that he paid Rs. 200 to Ramanna (Page 33).

Gunde Rao (31st witness) says that the 1st accused was seen with a bundle of money when the latter went to Mullasangudda estate soon after the murder and that he wanted currency notes for cash.

Rangaya Hebbbar (27th witness) also corroborates. Hampapur Ramanna also confirms this.

16. Sivaya says that Vagale Venkatachellaya came to him and asked him to go with him to Kutugode saying that 1st accused wanted him and others to go to Chick maglur and file complaints against the Police. He refused to go and dissuaded Vagale Venkatachellaya from going &c. (Page 34).

Vagale Venkatachellaya corroborates. (Page 124).

(17). Sivaya says he went to Lingapura and took Vagale Venkatachellaya at the instance of the 1st and 5th accused to Kutugode and that then the 1st accused told Venkatachellaya that the case should be turned against Dharanayasetty on a tender of pardon by the Police Assistant &c., and other incidents relating to the burial of the gun at Kotekalu river. (Pages 36, 37 and 38.)

Vagale Venkatachellaya corroborates. (Pages 125, 126 and 128).

(18) Sivaiya at page 57 states that 5th accused said at Kutugode that his father the 4th accused had asked him to sell off the house gun.

Exhibit A—49 is a Nagari letter in which the 4th accused asked his son to sell off the gun at home.

The 4th accused admits that he did send word to his sons to sell off the gun although he puts the date later than what Sivaya makes it to be. The 4th accused's son Krishnabhata (defence witness) also says that his father sent word to him to sell the gun.

5. The Judge deals with the evidence of the approver in paras from 20 to 40 inclusive.

6. Having shewn the points in which the approver could possibly be and has been corroborated I now proceed to answer the remarks passed by the Judge on certain portions of the evidence of the approver.

7. In para 20 of the Judgment the Judge says. "He states that a peon took him to the lockup saying that the 4th accused wished to see him. He is unable to say who that peon was and whether he was a Hindu or a Mussalman."

Answer :—It is not shewn that the witness saw the same peon more than once and one can hardly be able to find out whether a person in Police uniform is a Hindu or a Mnssalman especially if he happens to be beardless.

8. In the same para the Judge says :—
 “ The 4th accused and the witness talked to each other on the way to a water-course from the lock-up. That is a spot much frequented by people. So that a strong doubt arises whether in broad day-light such an interview was likely to have taken place.

Answer:— The time when the witness and the 4th accused had the interview was early in the morning about 6-30 A. M. which is the time to take the prisoners out for the purpose of obeying calls of nature. This portion of the water-course is not frequented by the public. Moreover, the witness and the 4th accused sat near a stone at a respectable distance from the pathway to the water-course and talked in such a low tone as not to be overheard even by the peon who was standing at a distance of 4 fathoms from them. There was not so much restriction placed upon the 4th accused as he was then merely an undertrial prisoner. The witness has said that none else was present.

9. Again in the same para the Judge says. “ The witness stated before the Magistrate that the interview was near an *Arekallu*. The Magistrate took him to the spot and asked him to point out the *Arekallu*. He pointed out a slab of stone and the Magistrate made a note of this. Before me also the witness said that the meeting took place near an *Arekallu*. It is conceded that there is no rock at the spot indicated by Sivaya. On being asked to reconcile this circumstance with his statement, Sivaya explains that *Arekallu* may mean a rock, a grinding stone or a slab. ”

Answer.—On the day on which the enquiry before the Committing Magistrate was concluded, the Magistrate at the request of the accused's Pleader Mr. Narasimhachar asked the approver to point out the place where he had an interview with the 4th accused. He accordingly took him to the place of interview where, he also

pointed out a stone. A note of it was made by the Magistrate. The existence of the stone there goes rather to corroborate his statement than to discredit him. No doubt he attaches some meaning to the word *Arékallu* as he understood. But this does not take away the value of his statement. Moreover if the incident was untrue and invented by the witness he would have taken care to name some object regarding which there could be no dispute. This only shews the truthfulness of his statement.

10. Further on in the same para the Judge says:—"Moreover there is nothing on record to discredit the statement of Pleader Malhari Rao (Defence 3rd witness) that the slab shewn by Sivaya was not in existence in the said spot before February 1892. Sivaya could not have therefore conversed with 4th accused in September or October 1889."

Answer.—The evidence of Pleader Malhari Rao has been discredited by the Judge himself in para 61 of his Judgment on a more important point. Consequently much reliance cannot be placed on the evidence of this witness.

11. Again in the same para the Judge says:—"It is not clear when and where the 4th accused had talked the matter over with the 1st accused so as to enable him to tell Sivaya that he would assist in the accomplishment of the Sandalwood plot."

Answer.—It is in evidence that during the trial of Sidle Nanjundabhattacha's case, 1st accused was coming to the lodgings of 4th accused's people in Bolarameshwara temple and taking his meals there. It is therefore possible that the 1st accused might have seen the 4th accused and talked to him on the subject.

12. The Judge observes in the same para:—"It may be remarked in passing that Sivaya pretends to have first declined to accede to the 4th accused's wishes but

afterwards to have consented in consequence of a threat uttered by the 4th accused."

Answer.—There is nothing strange in this statement. Admittedly the 4th accused is a power and terror in those parts. Being the leader of a faction he might have uttered a threat as stated by the approver.

13. Para 21 of the Judgment. The Judge says, "The 4th accused having been convicted and removed to Shimoga Jail, the next incident deposed to by Sivaya is an interview which took place in that Jail. He alleges that on that occasion he was sent to Shimoga in connection with the appeal preferred against the conviction. But this is unlikely inasmuch as he does not say that he took any interest in appeal. He simply attended the court and was present when the appeal was heard and dismissed."

Answer.—The witness was sent for by the 4th accused's son Krishnabhatta and as desired by the 4th accused he was asked to go to Shimoga. Although the 4th accused's son did not give out the real object of the Summons, it is evident from what followed after he went to Shimoga that 4th accused wanted to talk to the witness about the delay in carrying out the Sandalwood plot. In fact after the appeal was dismissed, the witness and 5th accused went to the Jail and had an interview with the 4th accused and talked over the collapse of the "Sandalwood plot," when the 4th accused asked the witness to do something sharp.

14. The Judge continues in the same para:—"The 33rd witness (Honne Devasthan Nagappa) who now speaks to the presence of Sivaya during the hearing of the appeal made a wholly different statement before the Police.

Answer.—Nagappa (33rd witness) never said before the Police that Sivaya did not

come to Shimoga when the appeal was heard probably he was not questioned about it. Before the Magistrate and the Sessions Court, Nagappa has stated that Sivaya had come to Shimoga when the appeal was heard.

15. In the same para the Judge says:—
 “Sivaya states that he accompanied the 5th accused to the Jail where the 4th accused on being told of the collapse of the Sandalwood plot begged him to do something sharp. What that something was to be did not transpire. I hesitate to believe the unconfirmed testimony of Sivaya on this point.”

Answer.—The expression “Do something sharp” when considered with previous conversations between the witness and the 4th accused implies that something should be done against Krishna Rao. The Judge expects corroboration on this point. Naturally no corroboration could be expected on this point. However, he is corroborated in so far as he states that he had come to Shimoga at the time.

16. In para 22nd of his judgment the Judge says. “The next incident was an interview which Sivaya is alleged to have had with the 4th accused in the Chickmagalur lock-up in February or March 1890. The 4th accused was then removed to that lock-up to stand his trial on a charge of giving false evidence. Sivaya cannot say who the peon was that took him to the lock-up.

Answer.—The witness being an utter stranger to the peons at Chikmagalur, he cannot be expected to know who the peon was that took him to the lock-up. Points like these might well have been omitted by the Judge from his serious consideration as they will not affect the credibility of a witness.

17. The Judge observes in the same para:—He alleges that the 4th accused told him to abandon all the previous plots

and in conjunction with the 2nd accused to help the 1st accused who had undertaken to kill Krishna Rao with a gun or a sword in return for a reward of Rs. 1,000 promised to him. The 4th accused further said that the 5th accused would supply the necessary weapons and money. In his statement before Mr. Venkat Rao, the witness said nothing about the help that was to be expected from the 5th accused."

Answer.—His omission to state it in his confessional statement will not affect the truth of his statement made on oath before the court, where he was bound to make a full and true disclosure of the circumstances within his knowledge. The omission might be due to defect of memory as he had referred to Lakshminarayan Bhatta's name in this connection in his statement before the Police.

(18.) *The same Para:*—"The witness professes to have refused to assist in the plot until he was promised a liberal reward in addition to the wiping off of the heavy debt due by him and also until a serious threat was uttered by the 4th accused. This interview presupposes an arrangement entered into by the 4th accused with the 1st accused. The 33rd witness who deposes to that arrangement states that there was no mention whatever of a sword and that he was simply asked by the 4th accused to buy a revolver for the 1st accused either here or at Shimoga. That there was subsequent interview between the 1st and the 4th accused before the arrival of Sivaya and that in consequence of the 33rd witness failing to purchase a revolver for the 1st accused, the latter was to use either a gun or a sword, is neither alleged nor proved by the Prosecution."

Answer:—The interview which Sivaya had with the 4th accused was some days after Nagappa (33rd witness) refused to buy a revolver or pay the money to the 1st accused who was in Chikmagalur up to 7th March 1890, when he left Chikmagalur

with the 5th accused and Kademane Sessa Bhatta who were going to Kutugode. Consequently there was nothing to prevent the 1st accused from going to the lock-up and talking to the 4th accused as to what Nagappa said respecting the revolver. This is a presumption warranted by the facts. The value of the evidence of the approver is not affected by the absence of independent testimony on this point.

19. In the same para the Judge says, "Furthermore if the 33rd witness was to buy a revolver, why did the 4th accused tell Sivaya that the weapon as well as the funds would be supplied by the 5th accused. There is absolutely no evidence to shew how and when the 4th accused asked the 5th accused to furnish either funds or weapons."

*Answer:—*Nagappa (33rd witness) having refused to buy a revolver, the 4th accused presumably learnt of that refusal from the 1st accused and intending to advise his son to furnish funds and weapons, he might have told Sivaya that the 5th accused would supply funds and weapons. No direct evidence could be got to corroborate the approver on this point. If so, that person would have been examined instead of the approver.

20. In the same para the Judge adds:—"It is alleged that the 1st accused was in the Kutugode lodgings here when Sivaya came out of the Jail after the above conversation with the 4th accused. One would naturally expect that the 1st accused and Sivaya would talk to each other at once as to what each of them had undertaken to do in the matter of Krishna Rao. Nothing of the kind, however, took place. Sivaya went away without exchanging a word with the 1st accused."

*Answer:—*When Sivaya returned from the lock-up after his interview with the 4th accused, the 1st accused and Nagappa (33rd witness) were engaged in the lodgings in tampering with the witnesses of Krishna

Rao who were to be examined that very day in the false evidence case. It is therefore natural to suppose that the 1st accused might not have thought of talking to the approver just then as he was engaged on a more important business. It may be equally supposed that the approver did not like to disturb him then. So he went to the Pettah to buy some eatables and came back to the lodgings, by which time 1st accused had gone away. The witness took his meals and went back to his village."

21. Para 23 of the judgment. Here the Judge says:—"Sivaya subsequently chanced to meet the 1st accused at a hotel at Koppa. There is nothing to shew that the 1st accused was then aware of the promise which the approver had made to the 4th accused. He nevertheless started the conversation by asking Sivaya what the promise was that he had made to the 4th accused in the lock-up. This was followed by a similar question to the 1st accused by Sivaya. The interview ended with a declaration by the 1st accused that he would either cut Krishna Rao down or shoot him. But it must be noted that the 1st accused had not undertaken to use any other weapon than a fire-arm. Before the Committing Magistrate Sivaya made no allusion whatever to cutting with a sword. In his confession he said that the 1st accused simply declared that he would despatch Krishna Rao."

Answer:—As already observed the 1st accused who remained at Chickmagalur up to 7th March 1890 must have seen and talked to the 4th accused regarding the latter's interview with Sivaya in the lock-up where there was every facility for the friends of the 4th accused to meet him. In fact the 1st accused's starting the conversation presupposes a knowledge on his part of the interview between Sivaya and the 4th accused. As already shewn, 1st accused must have had a talk with the 4th accused after Nagappa's refusal to supply a revolver

and the 4th accused must have told him then, as an alternative, to use either a gun or a sword. Consequently 1st accused told Sivaya that he would either cut down Krishna Rao or shoot him dead. The 4th accused having told the approver originally that the 1st accused had undertaken to despatch Krishna Rao either with a gun or a sword, his omission to mention both the weapons or one of them in this instance will not affect the value of his evidence, as there is nothing inconsistent in the main fact deposed to by him.

22. In para 24 of his judgment the Judge observes:—“The chit, Exhibit B, is a communication admittedly in the hand-writing of the 5th accused except the first four letters which constitute the name of the approver. Those letters seem to be wholly in a different hand. They are written in violet ink while the rest of the chit is written in black ink. This is extremely suspicious. I decline to believe that the 5th accused wrote the first 4 letters with ink taken out of one bottle while he wrote the rest of the chit with a different kind of ink contained in another bottle.”

Answer:—The writing of the first 4 letters is proved to be in the hand-writing of the 5th accused by the evidence of Aigala Venkataramanaya (36th witness), Nagappa (33rd witness) and the approver. As to the difference in ink, forger would take care to write the letters in a similar ink so as to avoid suspicion. The difference in ink may be due to accident.

23. In the same para the Judge says:—

“It appears to me clear that the chit which was addressed to some debtor or guest of the 5th accused which contains nothing but an urgent summons has now been tampered with and made improper use of by the approver.”

Answer:—There is no evidence that the said chit (Exhibit B) was written by 5th accused to any other person than the approver.

The 5th accused simply says he must have written it to somebody else whose name he cannot give. Hence the Judge is wrong in holding that it is tampered with.

24. Furtheron in the same para the Judge says, "The original name seems rubbed out and the name of the approver inserted in its place."

Answer.—There is no trace of any letter having been rubbed out in Exhibit B. A magnifying glass will shew that nothing has been rubbed out.

25. In the same para the Judge goes on to say :—"It may be remarked here that this statement as to the disposal of the gun was not made before Mr. Venkata Rao or before the Committing Magistrate."

Answer.—It is simply an omission which a person in the position of this witness, who has been narrating a series of facts, is likely to make through forgetfulness.

26. Again in the same para the Judge states :—

"Why the 1st accused did not himself load the gun and why the services of the 3rd accused were called into requisition I cannot understand."

Answer :—Under the circumstances, there was no particular reason why the 1st accused should not have loaded the gun, but this statement of the approver shews clearly that it is not an invention but an actual fact.

27. Furtheron in the said para of the Judgment :—"Sivaya and the 1st and the 2nd accused went to the house of the 2nd accused taking the loaded gun with them. Sivaya next returned home saying he would again turn up the next day. Accordingly all these three proceeded to the house of Krishna Rao and waited there until midnight. There was a large number of people in the house and some of them came out and sat down on the pial. Krishna Rao did not however appear. After a curse uttered by the 1st accused, the party left the house of

Krishna Rao] disappointed. All this reads more like fiction than fact”.

Answer.—The Judge has not stated his reasons for saying this to be a fiction. Can there be anything more natural than the circumstantial way in which the first attempt is stated to have taken place? Neither the approver nor the Police can be expected to have invented a fact wholly disconnected with the present offence as having occurred eight months previously. The only inference is that the approver has stated the facts as they occurred.

28. In the same para the Judge says:—
“This attempt is said to have been made during the Dasara. It is conceded that this feast attracts a large crowd of people to the house of Krishna Rao. They are fed there and they lie down night after night both on the pial and in the Kottige and everywhere else in the premises. Sivaya and the 2nd accused and the 5th accused were fully aware of this. That with such knowledge they selected such a night for the execution of their diabolical plot is a story which I cannot possibly believe. The statement that on such a night when everybody was up in the house, the would-be murderers got into the Kottige and stood there for several hours watching the faces of the many people who kept coming out and going in, is so manifestly absurd that I am surprised at the approver’s audacity in affirming it.”

Answer:—First of all it is not shewn by the Defence that on the particular night on which the first attempt was made, there was a large crowd of people as observed by the Judge. That there were some strangers in the house is a fact conceded by the Prosecution and it goes a great way to corroborate the statement of the approver that there was much noise inside the house, that 10 or 15 Brahmins came out of the house and sat on the pial, that the murderers watched for sometime and returned disappointed as Krishna Rao did not come out and as Phaniappa who had come out

went in shutting the door after him leaving the Brahmins on the pial. If the murderer had not actually gone to deceased Krishna Row's house that night, would Sivaya (on the supposition that he invented the story) have fixed that night as the date of the attempt knowing as he did that it was one of the fest days and that there would be strangers there?

Certainly not. there is nothing absurd in the statement of the approver that he and the other murderers went to the kottige in the night and hid themselves behind the heap of timber watching the time when Krishna Row should come out, when we here of persons committing murders without fear of detection in public streets and through fares in brood daylight.

29. The Judge says in para 25 of his Judgment:—

“Sivaya asserts that 3 or 4 months subsequent to the said futile attempt, the 5th accused took him to Shimoga when he had an interview with the 4th accused in the Jail. He was told to look sharp as the 1st accused would be coming again to Kutugode shortly. He does not know who the Jail-writer was that afforded facilities for this interview.”

Answer:—The witness says the writer who was present on the second occasion was a different person from the one whom he saw on the 1st occasion and that he was a Hindu (page 51 of his deposition). There is nothing to shew that the witness knew the writer before or afterwards. So he cannot be expected to say who the writer was.

30. In the same para the Judge says:—
“He says he met the 2nd accused who told him that he had come to Shimoga for Mr. Collins' appeal and that a Khandari named Mahomed Sha Khan had agreed to help him in the execution of his design on Krishna Rao's life. This Khandari denies ever having had anything to do with the

2nd accused. I cannot believe that he was entirely innocent. A letter written to him by Vagale Venkatachellaya was found in his possession. He was in some way or other mixed up with the matter of Krishna Rao's death. But his testimony coupled with the contents of the letters shew that the conspirators were Sivaya and Vagale Venkatachellaya and not the 2nd, 4th and 5th prisoners. The person that went to him was Sivaya's brother and not the 2nd accused."

*Answer :—*The Judge does not disbelieve the evidence of Sivaya that he saw the 2nd accused in Shimoga and had conversation with him and that the 2nd accused told the witness about Khandari Mahomed Sha Khan's promise to help him in the execution of the design of killing Krishna Rao. The Judge says that the letter Exhibit A 89 written by Venkatachellaya was found in the Khandari's possession. This is incorrect. It was the Khandari himself who brought the letter to light. If he was mixed up with the matter of the actual murder of Krishna Rao and if he was not innocent, would he have himself produced this letter? It is not in the nature of human beings to act so. He would have torn off the letter Exhibit A—89 and would not have even whispered anything about Krishna Rao. Curiously enough both when he produced the letter and gave a statement before the Police Assistant and in his evidence before the court, the Khandari connects Police Ramanna who is none other than the 1st accused. No doubt the Khandari now tries to make it appear that it was not the 2nd accused but Sivaya's brother that brought the letter A 89 to him. He was gained over by the adverse party when he was examined before the Committing Magistrate's court, where he all of a sudden turned round and said that the 2nd accused was not the "old Brahmin that had brought the letter to him. If he had not assured the Police that the "old

Brahmin" referred to by him when he produced it before the Police Assistant, was the 2nd accused, no question would have been put to him in court whether that "old Brahmin" was among the accused before the court. Before the Sessions Court the prosecution represented that the witness was hostile to the prosecution, whereupon the Judge noted down the representation and examined him. It is very significant that if Sivaya and Venkatachellaya were the only conspirators, and not the accused persons, the name of Sivaya should have been omitted in the confession which Venkatachellaya made before the Police Assistant at the instance of the 1st accused on the 21st September 1891.

By putting up Vagale Venkatachallaya to confess under a promise of pardon so as to implicate the Khandari and other strangers, the real offenders (the accused) had three-fold object: firstly to save themselves secondly to bring to scrape Khandari Mahomed Sha Khan who had betrayed them by producing Exhibit A 89, and thirdly to involve another enemy of the 4th accused and partizan of the deceased *viz*, Chinivar Dharanaya Setti into trouble.

31. Furtheron in the same para the Judge says:—"Sivaya states that on the occasion of this visit to Shimoga the 5th accused went to the house of one Chennabasappa and not only asked him to fulfil his promise with reference to Krishna Rao but also paid him Rs. 80 out of the money which had been promised him. Chennabasappa has not been called as a witness. It is not clear when and where he had made a promise and to what effect. Sivaya's allegation as regards this interview with Chennabasappa has not been corroborated in any way."

Answer:—No doubt there is no direct corroboration on this point. But the Post card Exhibit B 6 indirectly corroborates his statement; for it shews very clearly that friendly relations exist between the

4th accused and Chennabasappa and that in all probability the 5th accused resorted to that person for help in the matter of doing some harm to Krishna Rao. The statement of the 4th accused that he does not know who this Chennabasappa is, has been very properly commented upon by the Judge as being unsatisfactory and improbable.

32. In para 26 the Judge goes on to say, "After returning from Shimoga Sivaya admittedly visited Vagale Venkatachallaya at Sringeri and held several consultations with him in the matter of avenging the wrongs inflicted on them by Krishna Rao. The statement that the 2nd accused was also a party to these meetings has not been satisfactorily corroborated. Vagale Venkatachallaya was as much a culprit as Sivaya. His testimony is therefore of very little value."

Answer.—To begin with the name of the 2nd accused, Narasaya figures in the Amildar's Diary of the 9th June 1891, as being one of the murderers. Of the three viz., 2nd accused Narasaya, approver Sivaya and Vagale Venkatachallaya, Narasaya had the strongest motive to plot against the life of Krishna Rao. He is the veteran confidant and dependant of the 4th accused. It is this Narasaya that was to file the complaint of forgery against Krishna Rao as designed by the 4th accused but which attempt was however dropped in preference to a graver plot. It is not suggested why Vagale Venkatachallaya should depose falsely against the 2nd accused. The appeal preferred by Mr. Collins at the instance of the deceased was pending since a few months before the murder. The 2nd accused was anxious to do something soon to the deceased. The 1st accused who was to have come to carry out the plot could not come as his time was taken up in applying for transfer, retransfer and leave &c. So it is clear that the 2nd accused did join Sivaya

and Venkatachellaya for consultation in the latter's house as deposed to by them.

33. In the same para the Judge observes, "The only other witness to speak to these meetings is the 19th witness, Balaya, who was a neighbour and friend of Vagale Venkatachellaya and a *gnati* (or cousin) of the deceased Krishna Rao. He states that he saw Sivaya and the 2nd accused on two or three occasions in the house of Venkatachellaya but that on the day preceding the date of the murder, Sivaya, alone paid a visit to that house. He is an intelligent Patel. But he never said a word about these meetings either to the Head Quarter Inspector or to the Assistant Superintendent of Police at the earlier stages of the enquiry. It was on 31st July 1892 that I find him making his statement for the first time before the Amildar. Subsequently *i. e.* on 16th August 1892, he was examined by the Head Quarter Inspector. He admits that he then stated that "Sivaya and 2 or 3 others" used to visit Vagale Venkatachellaya and hold a secret consultation with him. He did not then mention the name of the 2nd accused. The latter was not a stranger to him. On the contrary, they were known to each other for such a long period as 8 or 10 years. His explanation that the 2nd accused is included in the vague expression "and 2 or 3 others" cannot be accepted as satisfactory. The witness goes on to say that as soon as he heard of the murder, he suspected Sivaya and Vagale Venkatachellaya who used not only to meet often but also to declare openly that they would serve Krishna Rao right. But he does not say that he suspected the 2nd accused as well."

Answer :—Neither the Head Quarter Inspector nor the Police Assistant ever sent for this man and questioned him. The witness did mention the name of the 2nd accused before the Amildar long before he gave his statement before the Head Quarter Inspector who seems to have vaguely worded his statement to avoid repetition of names. This cannot

affect the value of his testimony. He has mentioned the name of the 2nd accused on oath before both the courts. Moreover, this witness had given the names of the conspirators including that of the 2nd accused immediately after the murder. (Vide page 17, Amildar Seetharamaya's deposition on Book III and page 202, Balaya's deposition, Book II). There is nothing elicited to shew why the witness should falsely depose against the 2nd accused.

34. In the same para of the judgment the Judge observes "Sivaya states that at one of those interviews, the 2nd accused abruptly told Venkatachellaya that the Kutugode boys were thinking of killing Krishna Rao with a sword or a gun, and that Venkatachellaya observed that that was not the proper thing to do. This, however, is a statement which Sivaya did not make before Mr. Venkata Rao. On the whole, I am not satisfied that the 2nd accused ever participated in the secret meetings held by Sivaya and Venkatachellaya in the house of the latter."

Answer.—Sivaya has referred to this conversation before the Police, before Mr. Venkata Rao, before the Committing Magistrate and before the Sessions Court. But Mr. Venkata Rao has vaguely recorded Sivaya's statement on this point.

35. In para 27 the Judge says. "Sivaya goes on to say that the 2nd accused once lamented that much time was being lost and afterwards asked him to accompany him to Mahomed Sha Khan which he declined to do. The 2nd accused is said to have gone to Vagale Venkatachellaya and taken from him a chit which he delivered to Mahomed Sha Khan who promised to help him but failed to do so. This is the chit of which I have already made mention. The 2nd accused's connection with it is denied by Mahomed Sha Khan whose testimony is certainly not more tainted and improbable than that of Venkatachellaya and

Sivaya. I may also observe that the connection between this side-plot with Mahomed Sha Khan and the 1st, 3rd, 4th, and 5th accused has not been established."

Answer.—If this side-plot had not been worked in continuation of the original plot as designed by the 4th accused and of which the other accused persons and the approver were the executive members and if Sivaya and Venkatachellaya were the only persons concerned in this side-plot, certainly Sivaya would not have mentioned it nor referred to the chit Exhibit A 89. As already observed the 1st accused's name has been mentioned by the Khandari in connection with the chit.

36. *Para 28 of the Judgment:*—The Judge in describing the incident of murder says. "That there is some substratum of truth in it (*i. e.* in what Sivaya says). I am quite prepared to believe. The conduct of Sivaya and Venkatachallaiya as elicited from their own evidence seems calculated to shew that they were themselves the murderers. But the question for consideration is whether the accused 1, 2, 3 had anything to do with the murder. Venkatachallaya does not say that he saw any of those three persons on the night of the crime. Sivaya's unsupported assertion of it is on the face of it improbable and incredible."

Answer:—The Judge admits that there is some substratum of truth in Sivaya's statement and almost in the same breath says that Sivaya's unsupported assertion as affecting accused 1 to 3 is on the face of it improbable and incredible. Sivaya's statement has been directly corroborated by his niece Puttamma and Vagale Venkatachallaya and circumstantially corroborated by the evidence of Maler Subba (10th witness) as also by the admitted, suspicious, sudden appearance of the 1st accused in and about Kutugode at the time of the commission of the murder. Puttamma corroborates Sivaya also regarding the visit paid by the 2nd accused to Sivaya on the afternoon of Thursday (the

day preceding that of the murder). Therefore there is nothing improbable and incredible in the statement of Sivaya.

Moreover, it is not shewn that Sivaya or Venkatachallaiya had any immediate and sufficiently strong motive independently of that of the 2nd and the 4th accused to commit the murder of Krishna Rao. The inference that Sivaya and Venkatachellaya alone, independent of the accused, must have committed the murder of Krishna Rao is weakened by the presumption that but for the promise Sivaya made to the 4th accused and the pressure brought to bear upon him by the 5th accused, Sivaya would not have left his house on the night of the 5th July 1891 as admittedly his two sons were very ill, one of whom died two or three days afterwards. Neither of them have any motive whatever to implicate the 1st accused falsely. On the contrary, the fact that the pardon papers A 90 and A 91 granted to Vagale Venkatachellaya were found with the 1st accused, coupled with the fact that Sivaya's name finds no mention in Vagale Venkatachellaya's confession of the 21st September 1891, shews clearly that great intimacy existed between them and the 1st accused.

37. In the same para the Judge says:—
“The advice given by him (Sivaya) to Venkatachellaya that he should go back in the dark and should carefully avoid the public road is incompatible with the supposition of Venkatachellaya's innocence. It is not alleged that he was a party to the murder in the same way as accused 1 to 3. It follows that if Venkatachellaya was implicated in the murder, the accused, 1 to 3 had no manner of connection with it.”

Answer.—“It is not denied by the Prosecution that Venkatachellaya is not wholly innocent. He had his own part to play in the side-plot which proved unsuccessful, by speaking to the Khandari and by handing a letter to the 2nd accused to be delivered to the Khandari. He had also allowed consultations against Krishna Rao

to be held in his own house at Sringeri. He had also known the object with which Sivaya went to the 2nd accused's house on the evening of the 5th June 1891. Beyond this, he had nothing to do with the actual murder. It therefore does not follow that because Venkatachellaya had taken a part in the side-plot, that the accused 1 to 3 are not the parties to the murder. The facts on the record do not warrant the supposition that Venkatachellaya is himself the murderer; and if the presumption is far stretched, Venkatachellaya may perhaps be taken to be one of the accomplices. It may be said in passing that it was not Sivaya and Venkatachellaya alone that were originally suspected but that the names of 2nd accused Narasaya, Bellandur Ramu (who has now absconded) and the Kutugode people were also associated with the murder so early as 9th June 1891.

38. In the same para the Judge says:—
 “On Thursday, the 2nd accused is said to have told Sivaya that Bellandur Ramu was waiting in his house since the preceding night. That this is not true is evident from the statement of the 10th witness Maler Subba that he saw Bellandur Ramu on Thursday both in the morning and in the evening.”

Answer.—What Sivaya says is this:—
 “Narasaya said, Police Ramanna, Lingoji and Bellandur Ramu are at my house having come there last night. You should come at once. What do you say to this? (Vide Page 22 of Sivaya's deposition). It should be remembered that of these three, Police Ramanna and Lingoji arrived at Sasimane the previous night while Bellandur Ramu must have come there between the morning and the evening of Thursday during which hours he was not seen at Kutugode. In all probability the 2nd accused Narasaya while informing Sivaya of the arrival of these persons might not have been exact in his expression and consequently this circumstance cannot go against his evidence.

If we bear in mind the fact that the 1st, 2nd and the 3rd accused and Bellandur Ramu (who has absconded) as well as Sivaya had together to carry out on the said Thursday, the order of the 5th accused to murder Krishna Row, and also the threat used to Sivaya by the 2nd accused to the effect that he would send word to Kutugode that Sivaya refused to go with them that day (vide page 22 of Sivaya's deposition), the presence of Bellandur Ramu at Kutugode on the evening of Thursday can be easily explained. Naturally because as soon as the 2nd accused returned to his house that after-noon and informed the 1st and 3rd accused and Bellandur Ramu of what Sivaya had said, they must have consulted together and sent back Bellandur Ramu, to Kutugode to inform the 5th accused that they had to postpone the execution of the mission till next day, as otherwise the 5th accused would have been very anxiously waiting to know the result.

39. In the same para the Judge says :—
 “ Then again it is scarcely necessary to dilate upon the improbability of the extraordinary conduct imputed to the 1st accused by the approver. What was required was a single cartridge. Why should the 1st accused take 7 out of his pocket and expose them on the mat ? The story that he stumbled and fell seems invented for the purpose of accounting for the alleged discovery of a cartridge in the Kottige on the following morning. The story that there were six cartridges in the 1st accused's pocket when he left for Krishna Row's house but that, after return therefrom, one of them was found missing seems to have been invented for the same purpose. Why should the 1st accused who had evidently been in possession of the cartridges for several months take them out of his pocket as soon as he returned from Krishna Rao's house and count them and hand them over to the 2nd accused for the purpose of being buried ? ”

Answer.—As there were no strangers with the 1st accused at the time he naturally took the cartridges from his pocket, placed them on the mat and selected one of them which he considered good. It is also quite natural that the 1st accused while retreating in the dark stumbled and fell down and accidentally dropped one of the cartridges out of the 6 that were in his pocket as indicated by the statement of the approver. It is very probably the erroneous finding of the Judge as regards the discovery of the cartridge near the scene of occurrence that constrained him to look upon this part of the approver's evidence as also invented. As for the query of the Judge why the 1st accused should have handed over the cartridges and caps to the 2nd accused to be buried, it may be observed that as the object with which the cartridges and caps had been brought was accomplished, the 1st accused no longer required them and he therefore handed them over to the 2nd accused to be disposed of in the manner stated by him.

40. In the same para the Judge says. "I may also observe that Sivaya admittedly did absolutely nothing beyond accompanying the 1st and 3rd accused to the house of the deceased. Evidently there was no need for his services. Why then was the execution of the plot put off on his account from Thursday to Friday. All things considered, I reject as unreliable so much of Sivaya's version of this incident as relates to the parts played by the accused 1 to 3 in compassing the death of Krishna-Rao."

Answer.—The reason why Sivaya's company was needed was:—1stly because the 4th accused had expressly given instructions that the act should be done with the help of Sivaya and the 2nd accused, 2ndly, Sivaya was a man having local knowledge, 3rdly, the murder was to be committed at the very threshold of

the deceased's house in a dark night, 4thly, in an undertaking like this the principal murderer must have numerical strength to encourage him and back him up, 5thly, the 3rd accused and Bellandur Ramu were mere servants of the 5th accused and whose presence at the scene could not give the 1st accused as much courage as that of Sivaya, and 6thly, the subsequent conduct of the 2nd accused Narasaya in excusing himself from going to the scene of murder implies not only a previous determination on his part to stay away at home on that occasion but also a knowledge of the 2nd accused's intention on the part of the 1st and 3rd accused and Bellundar Ramu.

Hence it was that the execution of the plot was put off from Thursday to Friday. The Judge is therefore wrong in rejecting that portion of Sivaya's evidence as relates to the parts played by accused 1 to 3.

41. Para 29. The Judge says:—"Sivaya says he saw the 5th accused some 15 days after the murder and was then told that a discharge would be given him in addition to a reward. He also learnt that the 1st accused had been paid Rs. 200. The 5th accused denies this conversation which rests entirely upon Sivaya's tainted evidence. It is remarkable that Sivaya came away satisfied with mere promises. He did not insist upon the prompt settlement of his accounts or upon the immediate payment of the promised reward."

Answer:—"The statement of Sivaya that the 5th accused said he had paid Rs. 200 to the 1st accused is amply corroborated by the statements of Gunde Rao (31st witness), Rangaya Hebbar (27th witness), and Hampapur Ramanna (38th witness) all of whom speak to 1st accused having asked currency notes in exchange for cash which the 1st accused had in his possession when he visited Mal-lasangudda estate immediately after the murder. The Judge (in para 60 of his

Judgment) admits as follows :—“ It seems to me that the money if any in the 1st accused's possession was money which he had acquired in a lawful manner in order to enable him to get married. Of course for fear of being misconstrued and suspected, he now denies that he had any large sum of money with him on the date of his visit to the estate.”

The Judge while admitting that the 1st accused had a large sum of money on that occasion, tries to explain it away in favor of the 1st accused when he himself absolutely denies the fact. Under the circumstances, the denial of the 1st accused ought to be construed in favor of the Prosecution. The Judge's inference that the 1st accused had acquired the said money in a lawful manner to enable him to get married is wholly unsupported by any evidence on record. On the contrary, from the 1st accused's own statement before the court as well as from Exhibit B. 23 (the statement of 1st accused before Mr. Narayaniengar on 1st July 1891), it is clear that he left Chikmagalur on 31st May 1891, to go to Kutugode in order to beg for money on account of his marriage. He reached the place on the 2nd June 1891 and stayed in the house of the 4th accused till the morning of the 7th June 1891, without going out anywhere owing to his alleged illness (which is absolutely false), that he received only Rs. 3 from the sons of the 4th accused, whose accounts do not shew any such payment however, and that he left Kutugode on the morning of the 7th June 1891 and reached Mallasanagudda on the 8th June 1891, all these shew that the large sum of money which the 1st accused had with him at Mallasanagudda on the occasion of his visit to that estate soon after the murder, was money paid to him by the 5th accused in part payment of the price of blood *viz.* Rs. 1,000 promised to him by the 4th accused in the lock-up.

Sivaya was indebted to the 4th accused in a very large sum; he had also received

a large sum of Rs. 1,000 in February 1891 *i. e.*, just $3\frac{1}{2}$ months before the murder without being required to execute any bond for the same and also the confidential relations between Sivaya and 5th accused remained intact so much so that there is nothing noteworthy in the conduct of Sivaya in having come away with an assurance from the 5th accused that the promised discharge and reward would be granted in due time.

42. In Para 30 the Judge says:—
“Sivaya was questioned 15 or 20 days afterwards by the Assistant Superintendent of Police. He said he knew absolutely nothing. How does he explain that statement? He made it firstly because he was questioned in the house of his enemy (the deceased Krishna Rao) and secondly because he was in sorrow on account of the death of his child. This is simply absurd.”

Answer.—Admittedly Sivaya belonged to 4th accused's faction and confidential relations still subsisted between them; and he was also in hopes of getting a discharge of the debt due by him in addition to the reward. Under such circumstances, it is not reasonable to expect that he would have told the truth to the Police Assistant who questioned him at the very house of the deceased shortly after the murder.”

43. In Para 31 the Judge observes “Sivaya again went to Kutugode without being sent for, but what does he say he did on that occasion? He did not demand the discharge and reward to which he was entitled. He simply questioned the 5th accused as to what he had paid the 1st accused. In reply he was told that two Hundies for Rs. 600 were given to the 1st accused in the *benami* of one Humpapur Ramanna. Satisfied with this information he went back. This conduct of his was to say the least of it very strange.”

Answer:—Sivaya was in the habit of frequenting Kutugode house and during one of his visits he might have ascertained this in-

formation in the course of a casual conversation. There is nothing strange in this.

44. Para 32 of the judgment the Judge says:—

“ We now come to the alleged attempt to divert suspicion from the Kutugode people and to turn the case against a sowcar named Dharnaya Setti. The 1st accused was for a long time employed on special duty. He offered his services in this case also. The Police Assistant gave him a memo accepting the services offered. It was at that time that the attempt deposed to by Sivaya took place. His story is this, that at the instance of the 1st and 5th accused he took Vagale Venkatachellaya to Kutugode where by promises and threats he was prevailed upon to agree to become an approver. The 5th accused asked the 3rd accused to exhume and fetch the gun. The 1st accused took the gun thus produced; Sivaya, Venkatachellaya and the 1st accused proceeded to the river and buried the gun near it. Beyond a few purchases of cloths, Venkatachellaya had no dealings with the 4th accused. He was therefore under no obligation to the Kutugode family. He had nothing to do with the murder. It was no interest of his to serve the real offenders. Why was he sent for and asked to confess? Why did he agree to comply? The whole thing looks extremely improbable and quite unreliable.”

Answer.—To test the truth of Sivaya's statement in this respect, it is necessary to examine minutely how this case against Dharnaya Setty cropped up. From the time the offence was committed on 5th June 1891 till the 21st September 1891 when Vagale Venkatachellaya was brought forward by the 1st accused to confess after obtaining written promises of pardon from the Police Assistant, nobody had even dreamt that Dharnaya Setty was in any way concerned in the affair. Admittedly Dharnaya Setty was a friend of the deceased and an enemy of the 4th accused. Under such circumstances, what induced the Police to start a

case against Dharanaya Setty? The answer is this. The torture complaints filed by the servants of the 5th accused had not the desired effect. The case against the 1st accused and the Kutugode people was hanging fire. The 1st accused was determined to give the case a different shape and to get himself and his friends out of it. He therefore came forward on the 4th September 1891 and offered to point out the real culprits. On this fact being brought to the notice of the then District Magistrate, Colonel Campbell, the latter officer advised the Police Assistant to allow the 1st accused "to show his hand as far as he was inclined to do so," intending thereby that something useful to the case against the 1st accused and his accomplices might turn up (*Vide* Colonel Campbell's remarks dated 7th September 1891 on the Police Assistant Superintendent's Weekly Diary of the 4th September 1891). Accordingly the Police Assistant gave the 1st accused Exhibit A 98 on 10th September 1891 allowing him to do so. On receiving Exhibit A 98 the 1st accused accompanied by his friend Hampapur Ramanna took the Police Assistant to go to Sringeri. On their way at Balehonnur the 1st accused and Hampapur Ramanna left the Police Assistant and went in advance to Kutugode. There the 1st accused got the 5th accused to send for Sivaya who was sent to bring Vagale Venkatachellaya to Kutugode. The 1st and 5th accused induced Vagale Venkatachellaya to make a false confession implicating Dharanaya Setty and got the gun Exhibit C from where it had been previously buried. Then he (Sivaya) and Venkatachellaya took it to Kotekale river where they buried it in the river bank. Subsequently the 1st accused took Vagale Venkatachellaya to the Police Assistant who had by this time arrived at Sringeri and got him to confess after securing the pardon papers A 90 and A 91. Thereupon Venkatachellaya, as previously

arranged by the 1st accused, took the Police Assistant to the river bank and in the presence of the 1st accused shewed the gun which was secured by the Police Assistant. Then the 1st accused produced his witnesses at Chikmagalur all of whom were the dependants of the 4th and 5th accused. The Police Assistant examined and disbelieved them. He sent up a B sheet which was accepted by the District Magistrate on 28th September 1891. When the investigation was reopened in July and August 1892, those facts were disclosed by Sivaya and Vagale Venkatachellaya and thereupon, when the 1st accused's person &c., was searched at Chennagiri on the 24th August 1892, the pardon papers A 90 and A 91 were found in his possession. Does not the conduct of the 1st accused in all this look more than suspicious? And do not these facts sufficiently corroborate Sivaya's testimony and establish its truth? They do. Venkatachellaya was indebted to 4th accused at the time and belonged to 4th accused's faction. Moreover the Khandari had produced the chit Exhibit A 89 before the Police Assistant on the 24th July 1891 and the fear that the disclosure made by the Khandari might go against all of them if not counteracted very probably induced Vagale Venkatachellaya to consent to act up to the advice given by the 5th and 1st accused. He therefore secured his own safety by means of obtaining a promise of pardon and tried to help his friends out of the predicament by making a false confession implicating another enemy of theirs, *viz*, Dharanaya Setty. The result of having allowed the 1st accused full scope for his play was the discovery of the gun Exhibit C with which the murder was committed.

45. Paras 33, 34 and 35 of the judgment:—The facts and circumstances embodied in these paras are relevant so far as to shew the circumstances under which misunderstanding arose between the ap-

prover and the 4th accused. As it is admitted on both sides that misunderstanding arose between the 4th accused and the approver when the attachment of the latter's property took place in July 1892, a detailed discussion as to the probabilities or improbabilities of the facts mentioned therein was unnecessary.

46. In para 34 the Judge says:—"In his examination before the Deputy Amildar, Sivaya said not a word about the threat uttered by the 4th accused regarding the foisting of the papers into his house."

Answer.—Sivaya never said a word about foisting papers into his own house, but he merely said that the 4th accused used a threat that he would get a complaint preferred by the 2nd accused regarding it, which was accordingly done shortly afterwards by means of an anonymous petition. Sivaya was not examined as an accused person before the Amildar. He explains he did not like to disclose what had taken place between him and the 4th accused before he was put on his trial.

47. The Judge further on says in the same para, "that case was subsequently turned against the 2nd accused in July last at the instance of the Police and Sivaya examined as a witness. Even then Sivaya did not mention a word about the threat. That being so, his present statement does not seem credible."

Answer.—No question was put to Sivaya. Moreover there was no necessity for him to state any thing about the threat used to him by the 4th accused.

48. In para 36 the Judge remarks, "that it is extraordinary that Sivaya dreamt a dream just at the time when the Amildar reopened the investigation and was collecting and recording evidence that the coincidence is as remarkable as it is suspicious."

Answer.—The Judge has not considered the fact that just at this time the 4th accused having failed in his promise, filed

suits against the approver and got his property attached in addition to getting up a record theft case against him through the instrumentality of the 2nd accused. All these circumstances must have been weighing on the mind of the approver and he might naturally have had a dream about them. It does not matter much whether he actually had any dream or not. It is clear that there was thus a remarkable coincidence of misunderstanding arising between the approver and the 4th accused and the reopening of the investigation, a coincidence which was not foreseen and which led to a sudden disclosure of truth.

49. In para 37 the Judge says:- "He (Sivaya) accordingly offered to disclose the truth if a pardon was promised to him. I don't believe that he had no hopes of a pardon when he made his statement before the Amildar."

Answer:-This is incorrect. There is nothing on record to support the statement of the Judge that any hopes of pardon was held out to him.

50. In the same para the Judge says :-
"The Amildar caused an oath to be taken by Sivaya in a temple. He did not take down his statement but waited for the arrival of the Head Quarter Inspector."

Answer.—The Amildar's confidential Diary which had been sent up by the Amildar long before the Head Quarter Inspector arrived in the spot contains a full and exhaustive statement giving all the facts and circumstances connected with the offence.

51. In the same para the Judge observes:-
"The latter (Head Quarter Inspector) kept him (Sivaya) under surveillance for a fortnight and then recorded his statement."

Answer:-The Head Quarter Inspector has explained why he did not record his statement then and there not only in his Special diary but also in his statement before the Court. As the approver had made an ex-

haustive statement before the Amildar, the delay in not recording Sivaya's statement immediately after his arrival will not take away the value of his statement.

52. In the same para the Judge says :—
“After his admission to the lock-up as an approver, the old guard was removed and a fresh guard placed over him. One or two Policemen who had interested themselves in the detection of this case seems to have had access to him in the lock-up.”

*Answer :—*The old guard was removed by the District Magistrate because he had no confidence in the persons then forming the guard, who were very strongly suspected to have been under the influence of the 4th accused. That there was great laxity on the part of the old lock-up guard is admitted by the Judge himself. There is nothing to shew that any Policemen who had anything to do with the investigation of the case had access to the approver in the lock-up. Even if it be true the credibility of the approver's statement is not affected as he had already made an exhaustive statement both before the Amildar and before the Head Quarter Inspector.

Para 38. The Judge says :—“Not only did Sivaya several times deny all knowledge but he also on one occasion *i. e.*, on 25th June 1891 endeavoured to divert suspicion from himself and to direct it against a Shikar by name Singa whose father had a grudge against the deceased.”

*Answer :—*Sivaya was not asked anything about this in his examination before the Court. Nor has he referred to it in any way. Even if he has said so it was a time when the approver was in the 4th accused's camp and in order to save himself and his accomplices (the prisoners before the Court) he must have stated so.

53. Para 39. The Judge says :—“He (Sivaya) now admits that he gives evidence against the 4th accused out of *animus*.”

Answer :—No doubt the witness says he made his statement out of *animus* but he says that what he stated is true. It is indeed the recent *animus* that has induced him to come out with the truth. So this admission of his cannot in any way damage his statement.

54. Para 40. The Judge says :—"I think I have said enough to shew that Sivaya is a most untrustworthy and dangerous witness. He is anxious to save himself and at the same time to satisfy his grudge against the 4th accused. I was not favorably impressed with his demeanour while under examination. The conclusion at which I arrive is that the tender of pardon to him was a mistake and that his testimony is interested, unsatisfactory and wholly incredible."

Answer :—It is strange that the Judge neither expressed nor indicated his unfavorable impression of the demeanour of the witness while under examination in Court. Nor did he make any note of it in the proceedings, which he was bound to do under Section 363 of the Criminal Procedure Code if he was really not favorably impressed with his demeanour. So this observation of the Judge comes too late in the day and is wholly inadmissible. There are no circumstances which might induce any one to say that the pardon granted to the approver was a mistake. For it is clear from the evidence that the principal murderer is the 1st accused. As regards the observation of the Judge that "the testimony of this witness is interested, unsatisfactory and wholly incredible," it may be remarked that a Court of law cannot expect a more detailed and circumstantial evidence from an approver than that made by Sivaya in this case. He has made a consistent statement in all its details at the several stages of the case inculcating himself and the accused before the Court first before the Amildar, next before the Head Quarter Inspector, then before Mr. Venkat Rao, afterwards before the Committing Magistrate and lastly before the Sessions Court. His examination before the Court continued for days together and he was subjected to the test of

a very severe and lengthy cross-examination. Notwithstanding all this, he has been consistent throughout. From the Judge's observation one is led to infer that the whole of the approver's evidence as regards the accused persons before the Court was invented after the recent enmity arose between him and the 4th accused. If the facts deposed to by Sivaya are considered to have been invented at all, they must have been invented between the 25th July 1892 when the Amildar of Sringeri commenced to collect clues under the orders of the District Magistrate of Kadur and the 6th August 1892, when Sivaya made an exhaustive statement before the Amildar inculcating himself as well as the accused persons before the Court. It is next to impossible to invent a story with such circumstantial details as to make it accord with events and occurrences spreading over a series of years. In weighing the evidence of an approver, a broad line of demarcation should be drawn between the statement of a person who for the first time makes a disclosure after the tender of pardon and that of a person who before any legal tender of pardon, makes a confessional statement completely incriminating himself and his accomplices in the crime; and more weight should be attached to the evidence of the latter kind than to that of the former. The approver in this case falls under the latter category.

55. As already observed there is nothing in this case to shew that any hopes of pardon were ever held out by the Police to the approver.

56. Granting for the sake of argument that hopes of pardon were held out to the approver by the Police, that will not diminish the value of his evidence. See *Queen Empress versus Ganga Charan*. XI All. 79 Straight Judge says:—"It is obvious to my mind that almost from the moment of his arrest it was contemplated by the Police, and most properly to make him the instrument of bringing the other conspirators to justice."

57. There is another circumstance which enhances the value of the statement of the approver in this case. In making a confession before the Police and before Mr. Venkat Rao, the approver not only disclosed the facts connected with the offence in question but also disclosed the part he took in concealing the dead body of one Saltihadlu Manjappa who is said to have been murdered in the 4th accused's house so far back as 1887.

This matter was not allowed to be introduced into the case by the Committing Magistrate as being irrelevant.

58. In Para 41 the Judge says:—“The next witness whose evidence is material is Masti (11th Witness). He was the cowherd of the deceased. He says he was carrying firewood to the house of his master at 12 noon of the Friday in question when the 2nd accused met him and asked him whether the deceased was at home. The witness replied that Krishna Rao had gone out for the Durga Samaradhane. The 2nd accused without uttering a word more went away by a path leading to Kutugode and other places. This statement has only to be compared with the statement made by the witness before the Amildar on the 9th June 1891 to warrant its being entirely discredited. He then said that the 2nd accused stood on the road with his eyes directed towards the house of Krishna Rao and that he asked the 2nd accused what he was standing there for, the 2nd accused went away saying ‘for nothing.’ The 2nd accused thus did not enquire about Krishna Rao. Nor was he given any information as to his whereabouts. It must be noted here that this witness did not come forward until three days after the murder. That he made his statement earlier either to the deceased's brother or to the Jamadar has not been made out. The Police Assistant did not himself believe this witness.”

Answer.—It cannot be denied that the witness saw the 2nd accused about noon

on the Friday in question; because he mentioned the name of the 2nd accused so far back as 9th June 1891. The Amildar did not take down in writing the statement of this witness. Therefore his present statement cannot be unfavorably compared with an abstract note contained in the Amildar's Diary.

59. In Para 42 the Judge says:—"The witness Maler Subba has improved his story in certain particulars but it should be remembered that the Police Assistant Superintendent did not at all take down an exhaustive statement in July 1891."

60. Further on in the same Para the Judge observes:—"The witness states that he saw the 1st accused for the first time on the evening on which experiments were tried with the gun; that the people then present told him that he was Police Ramanna. Furtheron, however, he says that he had seen him on the previous day on his way to Halgar but that he did not then know who he was. Again he stultifies himself by saying that he had once seen him near 5th accused's coach-shed but did not then know who he was. Lastly he states that he had previously seen him and made his acquaintance in the house of the 4th accused and that when he met him on the way to Halgar, he not only recognized him and accosted him but also asked him where he was going and was in reply told that he was going to Kutugode."

Answer:—The witness was evidently confused when he gave the statement during cross-examination. He has distinctly stated the time since when he knew the 1st accused both before the Police Assistant and before the Committing Magistrate

61. Furtheron in the same Para the Judge says:—"The witness is not able to identify the gun."

Answer:—This distinctly shews that the witness does not overstate facts.

62. The Judge further says in the same para :—" He owes no house or lands and is a pauper."

Answer.—"Honesty and truthfulness are not the concomitants of riches nor can it be said that dishonesty and untruthfulness go with poverty. The witness earns a competence by honest living. Moreover the witness gave his statement before the Police Assistant in the early part of July 189 when he was still a servant of the 5th accused and when he had thus had every opportunity of knowing what was passing in the Kutugode house "

63. In the same para the Judge says:—" He is not on terms with the 5th accused who turned him out."

Answer.—"The witness was in the service of the 5th accused until 4 or 5 months after the date of occurrence and it is not shewn by the accused that he was on bad terms with the 5th accused at the time when he gave his statement before the Police Assistant.

64. Further the Judge says in the same para :—" He admits he was kept in Police Daffedar Seenappa's house for a day before going to the Head Quarter Inspector after night-fall."

Answer.—"There is no meaning in what the Judge says, because the witness did not depose for the first time before the Head Quarter Inspector about what he knew.

65. Further on the Judge says :—"There was no meaning in the experiments said to have been tried with the gun."

Answer.—"The meaning is quite patent. It was an experiment made to see whether the gun was in proper order or not after it was brought back from the person to whom it had been given out for repairs.

66. In the same para the Judge says :—" Altogether the evidence of this witness

does not commend itself to me as worthy of credit."

Answer.—There is no reason why the evidence of this witness should be disbelieved. There is no motive either alleged or proved as to why this witness should have told an untruth all along.

67. In para 55 the Judge says. "The witness (Aigala Venkatramanaya) says the 1st accused was, during the pendency of the sanction case, in the habit of visiting the Kutugode lodging here. This even if true cannot prove anything more than that the 1st accused knew the people of the Kutugode house."

Answer:—The Prosecution wanted to prove that the 1st accused was in Chickmagalur and frequenting and taking meals in the lodging of the Kutugode people in February and March 1890. Therefore this statement is important and cannot be slightly passed over.

68. The Judge's observation in the same para regarding the Nagari letters Exhibits A 49, A 67, A 64, A 65 and A 66 is not correct. There is intrinsic evidence of truth in their contents. The handwriting in them has been proved to be that of the 4th accused. It can never be supposed that these letters which are said to contain nothing calculated in any way to strengthen the case against the accused as observed by the Judge himself, would have been forged. The witness explains why and wherefore the letters remained in his duffter and there is thus nothing strange about it.

69. The Judge further on says, "In *Sravana* (September 1890) the 5th accused and the witness went to Shimoga and the latter states that the 1st accused joined him at Koppa and went with him to Shimoga where he had some Sircar business to attend to. The 1st accused admits that he accompanied the witness a short distance and explains that he was then on

special duty in connection with the arrest of one Ganapaiya."

Answer.—Evidently the Judge has no remarks to pass against this portion of the evidence of this witness, while on the contrary he has omitted to mention the name of the 5th accused in this connection. *Sravana* is not September 1890 but August 1890. Hence it will appear that the evidence of this witness is beyond all doubt.

70. Furtheron in the same para the Judge says, "The witness admits that when questioned by the Police Assistant after the death of Krishna Rao he said he knew absolutely nothing."

Answer.—It must be remembered that the witness was then under the service of the 5th accused and consequently he cannot be expected to have given out the truth then.

71. In the same para the Judge says, "Shortly afterwards he went to Kutugode house one day and there found the 5th accused, one Venkata Bhatta and Aiyabhattara Subbaya. He does not recollect who else was present. He does not depose to the presence of the 1st accused at that place. He does not testify to the several matters deposed to by Kavadi Venkata Bhatta whose evidence will be discussed hereafter."

Answer.—The witness has stated in the lower court that the 1st accused was present on this occasion. This witness was not present during the time the several facts deposed to by Kavadi Venkata Bhatta occurred.

72. The Judge furtheron says in the same para, "The witness asserts that the 5th accused sent him and Aiyabhattara Subbaya in order to deliver a chit to the 4th accused and to bring a reply from him. They saw 4th accused through the Jail officer. The 4th accused took the chit and sent a very short reply by word of mouth. That reply was that the 5th accused should not admit that Ramanna had come. The

that about the time when Aiyabhattara Subbaya corrected Exhibits A 76 and A 77, Aigala Venkataramanaya and Aiyabhattara Subbaya were told to go to Shimoga with a chit to the 4th accused. Therefore the denial of this witness is absolutely false.

74. In the same para the Judge observes that "his evidence discloses that the deceased had a large number of enemies."

Answer—The evidence of this witness does not shew that the deceased had a number of enemies about the time of his murder. The witness mentions the name of one Abbasét, who he says had ceased to be the enemy of the deceased long before the murder. That this is a fact appears from the conduct of Abbasét himself who on hearing of the death of Krishna Rao went to deceased's house on the 6th June 1891, remained there during the time when the Mahazar was written, signed it and went back in the cart of Phaniappa, brother of the deceased.

75. In para 56, the Judge says:—
"Venkatachellaya is not a Suthigekula of the 4th accused. He used to deal with Manjappa who is an enemy of the 4th accused. He simply purchased a few cloths and perhaps obtained a few small loans from the 4th accused. He was not therefore much interested in the 4th accused. He begins by making the most damaging assertion that at the request of Kavadi Venkata Bhatta, he induced his brother prejure himself in favor of the 4th accused in consideration of a bribe of Rs. 200."

Answer.—This witness who was admittedly dealing with Manjappa an enemy of the 4th accused and who belonged to Krishna Rao's faction, left him and went over to 4th accused's faction at the time when the deceased caused the complaint regarding the destruction of a valuable security to be filed by his cook Anantha Bhatta against the 4th and 2nd accused in

witness did not understand what this message meant and who the Ramanna referred to in it was. He did not go back to Kutugode and deliver the message to 5th accused. He went away to Kundapur charging Aiyabhattachara Subbaya with the carrying of the message to Kutugode."

Answer:—That this witness and Aiyabhattachara Subbaya went to Shimoga on this occasion is proved by the evidence of 18th witness Sirsappa and his account book entry Exhibit, A 11 and also by the evidence of defence 12th witness Krishna Bhatta (4th accused's son) and Exhibits B 34 and B 35 in the accounts of the Kutugode house. The reply that the 5th accused should not admit that Ramanna had come, is not inexplicable when it is taken into consideration along with the statements of Kavadi Venkata Bhatt and Hampapur Ramanna who say that in consequence of a discussion between the 1st and the 5th accused as to whether the presence of the 1st accused at Kutugode about the date of murder should be admitted or not, it was resolved that this witness and Aiyabhattachara Subbaya should go to Shimoga and bring the 4th accused's reply.

73. Again the Judge says in the same para :—"This Subbaya was examined as 65th witness for the defence. He denies the truth of Venkataramanaya's statement in toto. There is no doubt that he was present when petitions A 76 and A 77 were drafted for the 5th accused and his brother but this does not shew that his denial of the matters deposed to by the 36th witness is false."

Answer:—This Aiyabhattachara Subbaya is very much indebted to the 4th accused. The Police diaries will shew that this witness has been actively helping the accused and has withheld important facts. He is not a reliable witness. He admits having written certain portions of Exhibits A 76 and A 77 at Kutugode. Witnesses Venkata Bhatta and Hampapur Ramanna say

1889 in Criminal case No. 10 of 1889 on the file of the General Assistant Commissioner and 1st class Magistrate, Kadur District. It was under the following circumstances that Vagale Venkatachellaya went over to 4th accused's faction. In the above document destruction case deceased Krishna Rao had caused Venkatachellaya's brother Venkatasubbaya to be cited as a witness for the Prosecution. The 4th accused wrote Exhibit A 6 to Kavadi Venkata Bhatta (15th witness for prosecution) who was a great confidant of the 4th accused and asked him to prevail upon the witness Vagale Venkatachellaya to induce his brother to depose in his (4th accused's) favor offering a certain sum of money. Venkata Bhatta accordingly sent for Venkatachellaya and offered Rs. 150 but Venkatachellaya demanded more money. Whereupon, Venkata Bhatta sent him to the 4th accused, who finally settled with him for a sum of Rs 200. Venkatachellaya accordingly induced his brother Venkatasubbaya to depose in favor of the 4th accused. The said Venkatasubbaya then gave evidence hostile to the prosecution in that case (Vide statement of Venkata Subbaya in criminal case No. 10 of 1889). Ever since that incident, Vagale Venkatachellaya was thrown out of the deceased's faction and he continued to remain in 4th accused's faction, having employed his brother under the 4th accused. Admittedly he has had dealings from that time with the 4th accused who very recently, that is, in July or August 1892, filed a suit and obtained a decree against him. Thus it will be seen that Venkatachellaya has been very much interested in the cause of the 4th accused and it may be reasonably inferred that all that this witness Venkatachellaya did in connection with the side-plot against Krishna Rao was on account of the interest he had in the 4th accused.

76. In the same para the Judge says:—
 ‘He states that he saw the 1st accused at

Kutugode after the dismissal of his father's appeal in Nanjunda Bhatta's case. Nothing took place on that occasion beyond a lamentation by the 5th accused that his father had always failed while Krishna Rao had invariably succeeded. The sympathy and assistance of the witness were not invoked. Why the 5th accused should have lamented before him in the manner stated above I cannot understand."

Answer.—It is quite natural that when the leader of a faction is brought into trouble by the opposite faction, the members thereof should feel the disgrace as much as the leader himself and sympathize with his relations. There is therefore nothing unnatural in Vagale Venkatachellaya going to the 5th accused and sympathizing with him on account of the misfortune that had befallen his father.

77. In the same para the Judge says:—
 "Sometime afterwards the 2nd accused and this witness went to Kutugode to congratulate the 5th accused upon the collapse of the sanction case and yet he says he asked the 5th accused how that case had terminated. It is alleged that the 5th accused then told the witness and the 2nd accused that it was useless getting up cases against Krishna Rao and that the 4th accused had engaged the 1st accused for breaking Krishna Rao's limbs, that 1st accused had however failed to turn up and that some other strong man would do just as well if he could be got. This idea of maiming Krishna Rao is something new. According to Nagappa and others the 1st accused had undertaken to shoot or stab and not to maim. This shews that there could be very little truth in the statement of this witness. The witness says that the 2nd accused and himself were not asked to do anything but that nevertheless they told the 5th accused they would help him if they could."

Answer:—Even though a person hears from others news of a good result in any

matter concerning another person, yet it is customary among Hindus to question the person directly concerned. "What had been the result," just like they question each other in the morning "ಯದ್ದಿರಾ ನಾಸ್ತಮಿ." "Have you got up from your bed." Hence such expressions ought not to be literally construed and the evidence discredited. Neither Nagappa nor any one else has said that the 1st accused had undertaken to stab the deceased. The 5th accused may not have been quite exact in his expression and might have used the expression as deposed to by the witness.

As the 5th accused indicated a wish by his expression that in the absence of the 1st accused, some other man might do equally well if he could be got, the witness and the 2nd accused very naturally said that they would help him if they could.

78. In the same para the Judge says:—
 "He met Khandari Mahomed Sha Khan and offered to reward him liberally if he should kill or maim Krishna Rao. The Khandari agreed but said that he would do the needful at some other place than Nemmar. This statement may be perfectly true. It shews that the witness was himself anxious to do away with Krishna Rao."

Answer:—The witness did not tell the Khandari that he would reward him but he said as follows:—

"I spoke to him (Khandari). I told him that the 5th accused was prepared to liberally reward such person as would do something to bring trouble upon Krishna Rao. I asked him if he could do anything in the matter. He replied that he would do the needful if he were given a liberal reward. I asked him if he would come to Nemmar and break Krishna Rao's hands and legs. He said he could not go to Nemmar but that he was prepared to do what was required of him anywhere else."

(Pages 110 and 111—Vagale Venkatachellaya's Deposition, Book II.)

79. The Judge admits that this statement may be perfectly true. But his conclusion that the witness himself was anxious to do away with Krishna Rao is erroneous. On the contrary, it shews that it was the 5th accused who was anxious to do away with Krishna Rao and that the witness was merely acting as a mediator.

80. In the same para the Judge says:—
“He (witness) says he met the 2nd accused and informed him of the Khandari's promise but that the 2nd accused replied that the Khandari's services were unnecessary as the 1st accused had undertaken the business. This is not corroborated in any way.”

Answer.—This conversation between the witness and the 2nd accused took place just before the first unsuccessful attempt against the life of Krishna Rao took place in October 1890. The 1st accused admittedly going to Kutugode in October 1890 and the unsuccessful attempt that was then made by the 2nd accused and Sivaya with the help of the 1st accused are facts corroborative of the truth of Venkatachellaya's statement on this point. As a matter of fact the Khandari's services to waylay Krishna Rao were not engaged till some months after the first attempt had failed.

81. The Judge then goes on to say in the same para:— “The witness removed to Sringeri about that time and he deposes to several visits which the 2nd accused and Sivaya paid him there. At one of those visits the 2nd accused observed that the 1st accused had undertaken to shoot Krishna Rao but that as a gun could not be got for that purpose he was going to cut down Krishna Rao with a sword. This cannot possibly be true. There is a patent inconsistency on this point. It was said by Sivaya and others that there was a gun in the house of 5th accused and that that was the weapon used in

murdering Krishna Rao. This witness contradicts Sivaya as to the abrupt remarks which fell from the 2nd accused's lips on the said occasion."

*Answer:—*No doubt there was the gun Exhibit C in the 4th accused's house and it is with which the murder was committed. It was the gun taken at the first attempt in October 1890. As one of the hammers of that gun was not in proper order it is probable the accused were searching for a better one. It is also in evidence that the said gun which had been given out for repairs was brought back to Kutugode in the afternoon of the 3rd June 1891 *i. e.*, only two days before the murder. Under these circumstances, the 2nd accused must have said in Vagale Venkatachellaya's house that as there was no gun available the 1st accused perhaps intended to despatch Krishna Rao with a sword.

There is no contradiction between Sivaya's statement and that of Venkatachellaya as regards what Narasaya said on that occasion. In substance, both the statements tally.

In the same para the Judge says:—"The next point spoken to by the witness is the delivery of letter A 89 to the 2nd accused to be carried by him to the Khandari. I have already discussed this point. The letter was taken to the Khandari not by the 2nd accused but by an old man who represented himself to be the elder brother of Sivaya. That the witness wrote and sent the letter is clear. It shews that he was himself anxious to get somebody to take his enemy Krishna Rao's life. The Khandari received the letter but did not waylay Krishna Rao and murder him. The witness went to the Khandari and demanded the return of the letter but was in reply told that the letter had been destroyed. This took place some 20 or 30 days before the date of murder."

*Answer:—*It can never be said that the letter was taken by Sivaya's brother; because the Khandari never whispered a word that it was Sivaya's brother that had brought the

letter to him either before the Police Assistant Superintendent or before the Head Quarter Inspector. He made that statement for the first time before the committing Magistrate, when as has been already pointed out he was gained over by the adverse party and induced to say so. Beyond the suspicious statement of this hostile witness there is nothing to shew that Sivya's brother had anything to do in this matter. It is not shewn that Sivya's brother had any motive like the the 2nd accused Narasya who had ample motive to murder Krishna Rao. Further if the side-plot was not due solely to 2nd accused's exertion and if he was not the man who carried the letter, certainly either Sivaya, Venkatachellaya or both would have gone personally and taken active interest in the work instead of sending an unconcerned old man like Sivya's brother with the letter. The very fact that Vagale Venkatachellaya sent the letter by the 2nd accused Narasya instead of going there personally shews that he was a passive agent in the matter. Consequently the inference of the Judge that Venkatachellaya was himself anxious to take away Krishna Rao's life is untenable. It is moreover highly improbable that Venkatachellaya would have mentioned the real name in a letter of this kind: and the explanation given by Venkatachellaya regarding the omission of the 2nd accused's name in Exhibit A 89 is quite natural and reasonable.

83. In the same para the Judge says:—
 "As advised by Sivaya the witness and one Lachaya returned forthwith to Sringeri. On the way they met Kala Bhatta who offered them a torch which they declined. This portion of the evidence affects witness and Sivaya and not the accused 1 to 5."

Answer:—This portion of the evidence must affect the other accused also if taken along with other circumstances.

84. "In the same para the Judge says:—
 The witness made himself scarce for some time. This is inconsistent with his plea of innocence."

Answer:—As the witness belonged to 4th

accused's faction and as he had something to do with the side-plot and as he knew that the murder had been committed at the instance of the 4th accused, he naturally felt timid and made himself scarce for sometime. This is no ground for disbelieving his evidence.

84. In the same para the Judge says:—
“As regards the particulars of the admission by the 5th accused in the Ganapati temple at Agalgundi there is a material conflict between the statements of this witness and Venkata Bhatta while Subbaya denies all knowledge of it. Then again the presence of this witness is negatived by the evidence of Venkata Bhatta.”

Answer:—As the Judge throws out the admission of the 5th accused at Agalgundi on legal grounds, a discussion on this part of the evidence is unnecessary.

85. In the same para the Judge observes:—
“The witness goes on to say that he went to Kutugode where the 1st accused urged him to confess after a promise of pardon from the Police Assistant. The witness after a shew of unwillingness consented to do so. Why he thus agreed to put a noose round his own neck seems wholly unintelligible to me.”

Answer:—The reason is this. The 1st accused was in the hands of the 4th accused and the witness was fully aware that the 4th accused was a powerful man. There was his own chit (Exhibit A 89) written to the Khandari, in possession of the Sircar. Under such circumstances, he could not act otherwise than consenting to confess as tutored by the 1st and 5th accused.

86. Further in the same para the Judge says:—“He gave a circumstantial account of how and by whom the murder was committed. He now brands himself a liar and swears that the statement was the result of the 1st accused's tuition and came forward now with a wholly different story.”

Answer.—The so-called confessional

statement of Vagale Venkatachellaya in the case turned against Dharnaya Setti, has only to be compared with the confessional statement of the approver to declare it to be wholly and absolutely false. In no sense is it a circumstantial account of how and by whom the murder was committed.

87. In the same para the Judge says:—
“The several suspicious circumstances elicited in his statement cannot be easily got over. He is more a culprit than a witness. That such tainted testimony should seriously be relied upon in a case of murder does not seem very creditable to the acumen of those who had the working up of this case before its submission to the Magistrate.”

Answer.—There are no suspicious circumstances elicited in the statement of this witness so as to shew that he is the real culprit. In fact his connection in the affair is all passive and there is no evidence that he actually accompanied the murderer to the scene of crime. He cannot be considered to be an accomplice in the true sense of the word. Therefore there is nothing discreditable on the part of those who had the working up of this case in having taken Vagale Venkatachellaya as a witness especially when his statement is amply corroborated.

88. The Judge goes on to say in the same para:—“This man was sued by the 4th accused.”

Answer.—The Judge should have referred to the fact of the 4th accused having filed a suit against the witness in the beginning of this para of his Judgment where he discusses the points, proving the interest which the witness had in the cause of the 4th accused, as this fact would have shewn positively that the witness was indebted to the 4th accused.

89. In the same para the Judge says:—
“He is Nagappa’s witness in the 4th ac-

cused's suits against him and Nagappa was his witness in the confession case."

Answer.—As regards Nagappa being a witness in the confession case, it may be observed that it was the 1st and 5th accused that induced and pressed Nagappa to give evidence and the 1st accused took him to Chikmagalur, where he was examined by the Police Assistant on 26th September 1891. (Vide summary of Nagappa's statement in the B sheet submitted in Criminal Miscellaneous case No. 31 of 1891 on the file of the District Magistrate, Kadur).

90. The Judge says further on in the same para:—"He seems to be now under the influence of his creditor Manjappa and hopes to get back the lands which was sold in execution of the decree obtained against him by that person."

Answer:—No documentary evidence was produced by the Defence to shew that the witness is still a debtor of Manjappa and that he has got any hopes of getting back the lands sold and purchased by third parties in execution of the decree. The accused produced a witness (Defence 10th witness) on this point but his evidence is not worth a moment's consideration.

91. The Judge further on says:—"Bisweshwar in whose possession the Deputy Amildar found a suspicious letter purporting to have been written by this witness was formerly a servant under the latter."

Answer.—The letter referred to herein is not shewn to be in the handwriting of Vagale Venkatachellaya who has denied having written it and the court is wrong in having referred to it at all in its judgment.

92. The Judge says in the same para:—"All things considered, the conclusion is irresistible that this witness is a dangerous

character who had more to do with the death of Krishna Rao than would have the court believe and who now recklessly swears away the lives of other people with wicked motive. I have no hesitation in saying that his evidence even if legally admissible is entirely devoid of truth and must be rejected as worthless."

Answer.—What wicked motive the witness has against the accused persons has not been stated by the Judge except that he is not on good terms with the 4th accused now. Therefore the Judge is wrong in his conclusion that the evidence of this witness is worthless.

93. Para 57 the Judge says:—"The 15th witness Kavadi Vankata Bhatta is certainly not a better type of witness than the persons whose evidence has already been animadverted upon. He was twice convicted of the offence of Extortion. He deposes to certain incidents, the first of which is the harbouring of the suspected person, Bellandur Ramu, in the house of the 5th accused. He states that the Daffedar and a constable took him to the 5th accused and got him to ask the latter if Ramu was not in his house. The 5th accused said that he would hand over Ramu to the Police if they undertook to say nothing about the place where he was found. The Daffedar agreed and Ramu was given up. I don't believe a word of this. The Daffedar does not come forward and support the story. That the 5th accused bargained with the Police in this way is highly improbable."

Answer.—If what this witness says is not true and if the Police tutored this witness as is supposed, the Police would have taken care to make the witness introduce the name of a Policeman whom they could easily persuade to corroborate this witness. But in this instance the Daffedar being really guilty of the conduct imputed to him is evidently hostile to the Prosecution and he was therefore not examined

as a Prosecution witness. The Defence cited him but dispensed with his examination.

94. Then the statement of this witness Kavadi Venkata Bhatta as to the 1st and 5th accused having sent for (on or about the 20th July 1891) the servants of the 5th accused and Vagale Venkatachellaya and asking them to file complaints of torture against the Police, the discussion regarding the advisability or otherwise of the 5th accused admitting 1st accused's presence at Kutugode about the time of occurrence; the creation of documentary evidence in proof of 1st accused's *alibi* by fabricating the endorsement, Exhibit A 2 below the Bond, Exhibit A 1; the preparation of two Hundies in favor of Hampapur Ramanna for Rs. 583½ and payment of Rs. 200 in cash on account of the 1st accused; and also the fact of the 5th accused having sent Aigala Venktaramanaya and Aiyabhattachara Subbaya to Shimoga with a chit to the 4th accused, all this has been fully corroborated by the evidence of Hampapur Ramanna, Aigala Venkatramanaya and others coupled with the accounts of the Kutugode house. The truth of these facts is further established by the admission of the Judge himself that the 1st accused and Hampapur Ramanna were at Kutugode on this occasion; that they it was who set up the servants of the Kutugode family to prefer complaints of torture and that they received Hundies and cash from the 5th accused to the total sum of Rs. 783½.

95. The Judge says that the endorsement A 2 could not have been made on this occasion.

This is only a surmise of the Judge. The Defence has not adduced any rebutting evidence to shew that the endorsement was not made at the time and place proved by the Prosecution. Even the 4th accused's son, Krishna Bhatta (12th Defence witness) is not sure on what date

the endorsement was made (Vide his deposition). One Vykuntapur Bella Bhatta has attested the endorsement A 2. The endorsement has been proved by the Prosecution to have been fabricated on 22nd July 1891, antedating it as 5th June 1891. The attesting witness Bella Bhatta was remunerated in a sum of Rs. 300 by means of a Hundi dated 27th July 1891, (Exhibit V). This witness was cited by the Defence but his examination was dispensed with.

96. In the same para the Judge observes:—"Again the endorsement was not attested by the 1st accused. How then could it be used as proof of his *alibi*? Moreover, Kutugode is only a few miles from Nemmar. The 1st accused could be in both places on the same day. As evidence of *alibi*, the endorsement was thus almost worthless. The 1st accused could not have been ignorant of it."

Answer.—If the presence at Kutugode on the date of occurrence, of the persons by whose evidence it was intended to prove the *alibi* of the 1st accused, could be established by documentary evidence such as Exhibit A 2, the object is gained. For a plea of *alibi*, the distance is immaterial so long as such questions are decided upon the credibility or otherwise of the evidence produced. Moreover, in this case the accused were forced to create evidence of *alibi* because the 1st accused had committed himself to the statement Exhibit B 23 before Mr. Narayanaiyengar on 1st July 1891 that he was present at Kutugode on the date of the murder.

97. In para 58 the Judge says:—"Now as to the papers produced by the witness, I find that their probative value is almost *nil*. Three of them are admitted *viz.*, A 3, A 5 and A 7. The first of these relates to a dispute between one Krishna Bhatta and Subbasetti. It refers to "that party" and "this party" meaning thereby the

parties to that dispute and not the two antagonistic factions to which the 4th accused and Krishna Rao are alleged to have respectively belonged. Even the meaning attached to the letter by the Prosecution does not go further than shewing that the deceased and the 4th accused were on bad terms with each other."

Answer.—Exhibit A 3 is admittedly in the hand-writing of the 4th accused. Kavadi Venkatabhatta who produced it explains the meaning of the expression "that party" and "this party" to mean the two factions headed by Singah Bhatta and deceased Krishna Rao respectively. The explanation offered by the 4th accused is absurd. If the expressions "that party" and "this party" meant the parties to the dispute referred to in Exhibit A 3, what business or interest had the 4th accused to interfere and write it to Venkata Bhatta? Moreover, he says in the letter that even absent members of "that party" should be included in the complaint while the members of "this party" should not be included. Hence this Exhibit clearly proves the existence of the faction between the 4th accused and the deceased and the Judge is wrong in saying that its probative value is *nil*.

98. Further on the Judge says in the same para:—"A 5 simply asks the witness to come sharp. It is conceded that that had nothing to do whatever with the murder of Krishna Row."

Answer:—This letter is important as shewing that Kavadi Venkata Bhatta was the confidant of the 4th accused and was doing his bidding.

99. In the same para the Judge says, "The 4th accused says he is not sure that another letter A 8 is not also genuine. There is nothing in that letter damaging to him."

Answer.—It is likewise important as

shewing the friendship which existed between the 4th accused and the witness.

100. The Judge observes in the same para:—"There remain two other letters viz A 4 and A 6. Both of them are in Nagari while those admitted are in Kanarese. The 4th accused denies their genuineness. The evidence on record does not prove beyond all reasonable doubt that they are in the 4th accused's handwriting. One of them relates to a dacoity case against Krishna Rao and the other to the charge preferred against the 4th and 2nd accused by Krishna Row's cook. In the former, the witness was told that he would be paid Rs. 100 if Krishna Row were discharged, 200 if he were charged and 400 if he were convicted. The other asked the witness to tamper with Vagale Venkatachellaya's brother who was a witness for the Prosecution. I do not believe that these letters were really written by the 4th accused. Assuming that they were, what do they prove? They merely shew that the witness was as unscrupulous as the 4th accused and that there was bitter enmity between them and Krishna Rao. I wish to say a word as to how these papers were produced by the witness. He took the Assistant Superintendent of Police to the village of Kavadi. The box containing his papers was in some other place and was sent for. It came on the same evening and not on the next morning as alleged by the witness (see the evidence of Mr. Dunning). It was opened and searched on the following morning. Till then it remained in the house of the witness and out of sight of the Police Assistant. There were a Deffadar and one or two Constables inside and no body else. The lock was an ordinary one. Under these circumstances, a strong suspicion naturally arises that the box was tampered with during the night. However that may be, I have said enough to shew that the witness is not trustworthy and that the letters produced by him are not worth much."

Answer.—That these two Exhibits A 4

and A 6 are in the hand-writing of the 4th accused has been proved by the evidence of Aigala Venkataramanaya, H. Nagappa and Sadasivaya. These letters do not directly bear upon the facts in issue. The contents relate to facts and incidents connected with other cases which occurred so far back as 1889, while so it would be absurd to suppose that these are concocted for the purpose of this case. These were produced by the witness along with Exhibits A 3, A 5 and A 7 from the same box the key of which was with the Police Assistant until it was opened the next morning. The statement of Kavadi Venkata Bhatta that the box was brought the next morning is explained by the fact that he was kept in a different place from where the box was kept under the guard and that Kavadi Venkata Bhatta did not see the box till next morning when it was brought before him for being opened. Exhibit A 4 simply proves that the 4th accused was actively engaged in getting Krishna Rao into some serious trouble. Exhibit A 6 is important as corroborating the statement of Vagale Venkatachellaya that the witness Kavadi Venkata Bhatta asked him at the request of the 4th accused to prevail upon his (Venkatachellaya's) brother Venkatasubbaya, to depose in favor of the 4th accused in Criminal case No. 10 of 1889 and that since then Venkatachellaya joined the 4th accused's faction.

101. In para 59 the Judge says :—"The 18th witness Sirsappa is a merchant at Shimoga. He paid Aigala Venkataramanaya Rs. 10 on 4th August 1891 as desired by the 4th accused's eldest son Krishna Bhatta. The latter admits that payment. There is nothing to connect it with this case. It simply shews that Aigala Venkataramanaya was at Shimoga in August 1891."

Answer—This fact is very important as corroborating the statement of Aigala Venkataramanaya that he and Aiyabhattara Subbaya went to Shimoga about the end

of July 1891 to deliver the 5th accused's chit to the 4th accused in the Jail in order to ascertain whether the 1st accused's presence at Kutugode should be admitted or denied and that on that occasion he received Rs. 10 in Sirasappa's shop on 4th August 1891 at Shimoga.

102. In the same para the Judge says, "The 29th witness is Dharanaya Setty who is a rich money lender residing at Sringeri. It was against this person that Vagale Venkatachellaya and H. Nagappa endeavoured to turn the case in September 1891. He says he was in no way concerned in the murder and that the gun marked C unearthed and given by Vagale Venkatachellaya does not belong to him. He is not altogether an independent witness. He holds a lien on the approver's property."

Answer.—It was the 1st and 5th accused and *not* Vagale Venkatachellaya and Nagappa that endeavoured to turn the case against Dharanaya Setty in September 1891. As already shewn, Dharanaya Setty belonged to Krishna Row's faction and was his friend. He has denied he had anything to do with the murder. The lien which he holds on approver's property was created so far back as 1889, and a decent portion of the debt has been already discharged by the approver. While so recently as February 1891, the 4th accused's son lent a large sum of Rs 1000 to the approver without a bond or security, the old lien of Dharanaya Setty does not take away the value of approver's evidence.

103. In the same para the Judge says:— "that the evidence of the 34th witness Sadasivaya is not quite disinterested and credible; but there are not sufficient grounds to discredit the statement of this witness, who produced for the purpose of mere comparison of 4th accused's handwriting Exhibit A 75 from among the records of the Hariharpur Matt of which the 4th accused was admittedly the Manager. The Judge does not say that

A 75 is a forged document, and the contents thereof which relate solely to Matt affairs do not shew that the Prosecution would have concocted it.

104. Farther on the Judge says:—"The 43rd witness is Khandari Mahomed Sha Khan to whose testimony a reference has already been made. Besides deposing to negotiations between himself and Vagale Venkatachellaya regarding the harm to be done to N. Krishna Rao, this witness states that Vagale Venkatachellaya, Sivaya and Hyder used to go about together committing thefts, that he declined to mention the 4th accused's name which was nevertheless taken down by the Head Quarter Inspector."

Answer:—This witness turned hostile to the Prosecution before the Committing Magistrate and he was represented to be so before the Sessions Court which recorded the representation and examined the witness. This witness has not stated before the Committing Magistrate that the Head Quarter Inspector put down the 4th accused's name of his own accord. The Judge admits that this is not a safe and trustworthy witness.

105. In para 60 the Judge says:—"It would appear that he (1st accused) was slightly indisposed when he went to Mallasangudda."

Answer:—There is no evidence on record except the statement of the 1st accused that he was indisposed when he came to Mallasangudda immediately after the murder.

106. In the same para the Judge says:—"The witness (Rangaya Hebbar) goes on to say that one of his Gumastas told him that the 1st accused wanted currency notes in exchange for cash. He does not mention the amount. The 1st accused denies this and asserts that he had only a few rupees with him at the time. The only witness who deposes to the 1st accused being in possession of money and asking for currency notes, is the 31st witness Gunde Rao whose evidence as I shall shew further on is not deserving of credit.

Granting that the 1st accused had some money and that he wished to exchange it for Currency Notes, I think that this fact does not necessarily justify any suspicion against him in this case. The 1st accused was on leave. He had long been employed both on general and on special duty in the Koppa Taluk and knew most of the wealthy people of that Taluk. He asked Pleader Malhari Rao to find a bride for him. The Amildar's Diary of 17th June 1891 shews that 1st accused was seen going about and asking people to help him for his marriage. Under these circumstances it is quite possible that he had succeeded in raising some money before he visited the estate of the 27th witness in June 1891. I fail to see how in the entire absence of evidence except the hear-say statement of the tainted witness Sivaya, I could connect the money which the 1st accused then possessed with the reward which he is alleged to have obtained from 5th accused for the part played by him in the murder of Krishna Rao.

107. Again in the same para the Judge says:—"Gunde Rao states that during his stay in the estate in June 1891, the 1st accused took out a bundle of rupees from his Railway bag and placed it on the ground. He estimates the contents at 500 or 600 Rs. The 1st accused was often seen carrying the bundle in his arm-pit during his stay in the estate. All this is in the highest degree improbable. The 1st accused would not have fearlessly exposed the money and openly carried it with him if he had obtained it from the 5th accused as remuneration for a murder committed by him but a few days previously. Moreover, Sivaya's statement, if true, shews that the 5th accused then paid the 1st accused only Rs. 200, whereas the bundle in the 1st accused's possession was estimated to contain nearly three times that amount. It seems to me that as already observed the money, if any, in the 1st accused's possession was money which he had acquired in a lawful manner in order to enable him to get

married. Of course, for fear of being misconstrued and suspected he now denies that he had any large sum of money on the date of his visit to the estate."

Answer.—Herein the Judge admits that the 1st accused might have had a large sum of money with him on this occasion, having acquired it by lawful means. Whether he acquired the large sum of money by lawful means or not will be considered hereafter; but there is the fact that he had the money which he wished to exchange for currency notes and the statement of Gunde Rao that the 1st accused was in possession of money is therefore worthy of credit. His being in possession of a large sum of money, immediately after the murder, forms an important factor in deciding the question of his guilt or innocence in this case. The Judge's inference that the 1st accused might have succeeded in raising money for his marriage from the wealthy people of the Koppa Taluk is totally unsupported by the facts on record. The 1st accused's statement that he left Chickmagalur on 31st May 1891, that he reached Kutugode on the 2nd June 1891 remained there till the 6th owing to his alleged illness, that he received only Rs 3 from the Kutugode people even which is not found in the accounts of the Kutugode house. That he left Kutugode early on the morning of the 7th and reached Mallasangudda on the 8th June 1891, all this distinctly disproves the presumption of the Judge, that the 1st accused acquired the said large sum of money from the wealthy people of the Koppa Taluk. The information mentioned in the Amildar's diary of the 17th June 1891 is based on unfounded rumours and is totally incorrect as can be seen from the 1st accused's own statement. Therefore the Judge ought not to have attached any weight whatever to what is contained in the said Diary.

The estimate of Gunde Rao that the bundle in the 1st accused's possession looked

big enough to lead him to suppose that it contained about 500 Rs. is rough estimate. The cloth may have been so folded up as to make the bundle look large. This statement does not therefore militate against the statement of the approver who says that the 5th accused told him that he had paid Rs. 200 to the 1st accused. The statement of Sivaya regarding the payment of Rs. 200 to the 1st accused by the 5th accused in part payment of the 1,000 Rs promised, is not hearsay evidence but it is legal evidence as he speaks to what the 5th accused told him in person.

103. In the same para the Judge says:—
 “During the 1st accused’s stay in the estate (Mallasangudda) a fresh arrival named Hiranniappa observed that a Police cartridge was reported to have been discovered near the scene of the murder and that consequently there was a suspicion that a Policeman must have had a hand in the crime. The 1st accused who heard this is said to have abruptly left the estate on the following morning without taking leave of anybody. I do not believe that there is any truth in this. If the case for the Prosecution is true, it is plain that the 1st accused must have known as soon as he got back to the 2nd accused’s house on the night of the murder that he had dropped an unexploded cartridge when he half fell down in Krishna Rao’s Kottige and that it would surely be discovered and picked up early next morning. He did not leave Kutugode until the 7th or 8th and he must have heard that the cartridge had been picked up on the morning of the 6th. The news brought by Hiranniappa more than a week afterwards was therefore not a surprise to him. Why then should he be so distressed by it as to necessitate his leaving the estate abruptly without telling anybody? He is a shrewd man who would not have failed to see that such conduct on his part must surely lead to a suspicion being aroused against him.”

*Answer:—*That there was a talk of the

discovery of a Police cartridge at Mallasangudda in the 1st accused's presence is admitted by the 1st accused himself, although he tries to make out that he heard of it much earlier than what the witnesses, Rangaiya Hebbar (27th witness) Kadur Gunde Rao (31st witness) and Hampapur Ramanna (38th witness), prove it to be. The 1st accused also admits that he left the estate without telling anybody. Is not this conduct highly suspicious? The inference of the Judge that the 1st accused must have known that he had dropped the cartridge in Krishna Row's Kottige when he half fell down and that it would be discovered and picked up early next morning is far fetched, as the 1st accused himself did not know where the cartridge had fallen. The Judge is incorrect in stating that the 1st accused did not leave Kutugode until 7th or 8th, for the 1st accused himself admits in Exhibit B 23 that he left it early in the morning of the 7th June 1891. The cartridge was picked up in the deceased's Kottige at Handalmane on the morning of the 6th and probably the 1st accused like a true murderer shut himself up in the Kutugode house the whole of that day (6th). Therefore it is not at all likely that he could have heard of the discovery of the cartridge before he left Kutugode on the 7th morning. He reached Mallasangudda on the 8th and he must have heard of the discovery of the cartridge there as proved by the Prosecution and admitted by the 1st accused.

The Judge says. "It would appear that he left his *maguta* behind him when he went away from the estate. This was evidently due to an oversight."

Answer.—It is not even pretended that the 1st accused went to the estate with any heavy luggage so as to attribute the leaving of the *maguta* behind him to oversight. He had come with a Railway bag containing a bundle of Rupees and a *maguta* which latter is a necessary thing for a Brahmin to take with him wherever

he goes. His leaving the *maguta* should be attributed to the confused and disturbed state of his mind in his hurry to leave the estate in consequence of the disclosure of the fact that the cartridge had been discovered near the scene of occurrence.

109. In the same para the Judge says:—
 “ Some 20 days after this, Rangaya Hebbar received a letter purporting to have been written to him by the 1st accused. He produced this letter before the Assistant Superintendent of Police on or about the 15th July 1891. Exhibit A 24 is that letter. It is dated 30th June 1891 and was posted at Chickmaglur. It is wholly in the handwriting of Constable Mylariah, the 35th witness, who states that he wrote it at the 1st accused’s dictation and gave it to him to be posted. The 1st accused denies this *in toto*. The letter does not even contain his signature. The contents of the letter are somewhat suspicious. It purports to acknowledge a letter which Rangaya Hebbar never wrote to Malhari Row. It asks Rangaya Hebbar to excuse the 1st accused’s leaving the estate without permission. Lastly it vaguely refers to a conversation which the 1st accused had with Gunde Rao, the 31st witness, at Chickmaglur. The object of putting in this letter is chiefly to corroborate Gunde Row’s statement regarding a mysterious talk between himself and the 1st accused near a shop at Chickmaglur. The record shews that a suspicion had already arisen against the 1st accused, whose movements and conduct were therefore being closely watched. The Police record seems to shew that Mylariah the writer of the letter was the person who had been deputed to watch the 1st accused’s movements. That such a man should have been had recourse to by the 1st accused for writing this suspicious letter which he could have himself written with facility, is a circumstance wholly incredible and beyond my comprehension. I am led to suspect that this letter was an attempt on the part of Mylariah and Gunde Rao to

manufacture evidence against the 1st accused and I consequently decline to attach any importance to it."

Answer :—Like A 24 the two Post cards A 25 and A 26 also are neither in his handwriting nor signed by him. They were none the less sent by him to Rangaiya Hebbar and are admitted by him. The inference of the Judge that Exhibit A 24 must have been manufactured by Constable Mylariah and Gunde Rao who had no motive whatever against the 1st accused to concoct evidence has no foundation in fact. The letter A 24 was produced before the Police Assistant on 15th July 1891 by Rangaya Hebbar (27th witness) who is a respectable Coffee Planter. The Judge observes that because Mylariah had been deputed to watch the movements of the 1st accused, it was not probable that he would have been asked by the 1st accused to write the letter A 24. But there is nothing in the record that the 1st accused knew that Mylariah had been so deputed. Certainly a Police man enjoined to have an eye over the movements of another person would endeavour to mix freely with that person and to be always with him so as to be able to watch his movements. It is reasonable to suppose that in one of those familiar moments the 1st accused asked his brother Constable Mylariah to write a letter for him and posted it himself without signing it. If Gunde Rao and Mylariah manufactured the letter, as is incorrectly supposed by the Judge, they would have taken care to forge 1st accused's signature to it as the 1st accused is not a good writer and cannot at all write with facility. The 1st accused denies this letter now because there is an admission in that letter that he saw Gunde Rao at Chikmagalur and had conversation with him.

110. The remarks of the Judge on the evidence of Gunde Rao are not supported by valid reasons.

111. In para 61 the Judge says:—

“I think the 1st accused was really present when a consultation was held in the matter of getting the servants of the 4th accused to lodge complaints against the Police Assistant. But as already shewn by me the endorsement under Venkat Bhatta's document could not have been written on that occasion and for the purpose mentioned by Venkata Bhatta and Hampapur Ramanna.”

Answer.—The Judge believes the statement of Venkata Bhatta and Hampapur Ramanna as regards the presence of the 1st accused in the Kutugode house at the time when the endorsement is stated by these witnesses to have been fabricated. The Judge also believes the issue of two Hundies and the cash payment of Rs 200 on this occasion as deposed to by these two witnesses. There is thus no valid reason for discrediting the evidence of these two witnesses regarding the endorsement.

112. In para 61 the Judge says, “And now does the accused's conduct as disclosed by the proceedings subsequent to the murder necessarily shew that he was himself a party to that crime? I think not. It is quite consistent with the hypothesis that he was quite innocent and that he simply took advantage of the suspicion entertained against the Kutugode family and made some money for himself by proffering his services to the servants of that family.”

Answer.—Considering the conduct of the 1st accused from the beginning to the end as evidenced by the record, the very very suspicious, sudden appearance of the 1st accused at Kutugode a few days before the murder after obtaining leave (Vide Exhibit B—19) under the pretext that he had urgently to go to his village for the purpose of getting married, his leaving Kutugode immediately after the offence with a large sum of money in his possession, his reappearance at Kutugode with Hampa-

pur Ramanna on the 18th of July 1891 when the Police Assistant was collecting evidence in that neighbourhood, his taking unusual interest in thwarting the investigation, his diabolical attempt to turn the case against Dharenaya Setty in September 1891 and producing Vagale Venkatachellaya before the Police Assistant, getting pardon for him, and making him give a false confession, above all his being in possession of the pardon papers granted to Vagale Venkatachellaya, all these indicate the conduct of an offender highly inconsistent with the hypothesis of innocence.

113. In para 67 the Judge says:—"I wish to note here that if the 1st and 4th accused had planned the murder in the presence of Nagappa in February or March 1890, it is not at all likely that the 4th accused would have shortly afterwards written letters A 70 and A 71 to his sons asking them to settle accounts with Nagappa and send him away."

Answer.—This distinctly shews that the 1st accused must have informed the 4th accused of the attitude of Nagappa in refusing either to purchase a revolver or to pay money for the purchase of one and bearing that in mind, the 4th accused must have written Exhibits A 70 and A 71. Moreover, the purport of the letter as given above by the Judge is incorrect. The letters A 70 and A 71 ask the 4th accused's sons to settle Nagappa's accounts and to take possession of Sircar papers from him *if he does not choose to remain in service* and that if he wishes to remain in service the papers should be left in Nagappa's possession. Nagappa admittedly remained in 4th accused's service for several months afterwards.

114. In the same para the Judge says:—"In May and June 1890, the 4th accused wrote to his sons asking them to sue Sivaya and many other debtors if they fail to repay the debts due by them. This he would not have done if Sivaya was expect-

ed to render help in the plot which had for its object the murder of Krishna Rao."

Answer.—It must be borne in mind that the plot was laid in February 1890. Till May and June 1890 no action was taken by the approver and the 1st and 2nd accused. The 4th accused is always in the habit of using threats to his dependants and persons under obligations to him as is apparent from Sivaya's evidence, and with the object of expediting the execution of the plot, he might have written these threatening letters. As a result of this the first attempt was made in October 1890. If the 4th accused really intended that Sivaya should be sued for debts due by him, certainly the sons of the 4th accused would not have lent Sivaya again a very large sum of Rs. 1000 subsequently in February 1891 on mere accounts (Vide Exhibit A 74).

115. In para 68 the Judge observes, "On 3rd March 1892 the Head Quarter Inspector observed that Sivaya had fallen out with the 4th accused and that Seshabhattacha and another having been sued by the 4th accused, were doing their utmost to turn the case against him."

Answer:—In the expression "turn the case against him" the word "turn" is the Judge's own and has been wrongly used by him. The word used by the Head Quarter Inspector is "strengthen" implying thereby from the context that the said persons were till then as 4th accused's friends doing their best to divert suspicion from the 4th accused.

116. Not only in this particular but also in several other instances, the Judge has given wrong quotations from the Diaries. For instance, in para 19 of the Judgment the Judge says:—"On the 28th June it was believed that Bellandur Seshabhattacha who is an enemy of the 4th accused and who has evinced considerable interest in this case, had concocted a plot in order to divert suspicion from the real culprits to the Kutugode people."

Whereas the Diary of the Assistant Superintendent dated 28th June 1891 shews quite the contrary. It runs as follows:—
 “Sent for Bellandur Seshabhāttā, who, the Amildar informed me, had as usual concocted a story relative to the murder which should divert all suspicion from the Kutugode people.” In para 69 of his Judgment the Judge admits that the 4th accused is a man of great influence and that naturally no evidence could reasonably be expected from his friends and under obligations to him.” He further admits that “there is a strong suspicion against the prisoners” but says that “reliable and conclusive proof of their guilt is utterly absent.” The foregoing answers to the remarks made by the Judge will shew that there is very reliable and conclusive proof of the guilt of the prisoners.

CONCLUSION.

117. It has been proved that the deceased died of a gunshot wound; that there were two factions in the Koppa Taluk headed by the deceased and the 4th accused respectively; that in consequence, the ill-feeling between the two grew very strong and so much so that when the 4th accused was brought in prison-dress to Chikmagalur Lock-up in February 1890 at the instance of the deceased, the 4th accused plotted to bring a charge of forgery against him; that not being satisfied with that the 4th accused suddenly changed his mind and plotted the murder of Krishna Rao; that the 4th accused hired the services of the 1st accused who was long known to him and was then at Chikmagalur to assassinate the deceased with the help of the approver, the 2nd and 5th accused; that in pursuance of this plot an abortive attempt was made in October 1890, and that the plot was finally executed on the 5th June 1891.

The approver has deposed to facts which occurred between October 1889 and October 1891. These facts are so numerous and varied and the evidence given by him

is so circumstantial that it is impossible to suppose that they were invented for the purpose of this case. It is admitted that until a short time before these disclosures were made, the approver and the chief witnesses who speak to the main facts of the case were friends of the 4th accused and were under obligations to him. It is only the recent misunderstanding among them that has brought the case to light. As already observed in the early part of this memo, the existence of recent animosity should not come in the way of weighing the evidence of the important witnesses in this case.

In my opinion, a very strong case has been made out by the Prosecution against the accused and it is a fit case for appeal. The reason why the Judge acquitted the prisoners is easily explained. The Judge having erroneously arrived at the conclusion that the discovery of the cartridge near the scene of occurrence was a concoction, he was constrained for consistency's sake to disbelieve that part of the statement of the approver which relates to the possession of cartridges by the 1st accused while going to and returning from the scene of murder and his having missed one of them on that occasion. Having disbelieved a portion of the evidence of the approver, the Judge thought himself bound to reject the whole of his evidence and to conform his decisions on other points accordingly. Thus the case unfortunately resulted in the acquittal of the real offenders.

That the Judge was not himself sure about the correctness of his own conclusions is evident from the wording of his order discharging the approver. He says that the approver has not withheld anything essential nor given false evidence.

E. SUNDARAM IYER.

Public Prosecutor,

10th April 1893.

Nagar Division.

1893

16 NOV 93

855

J. References at once
16-11-93

From	The Public Prosecutor
Section	24
File No.	24
Serial No.	11
To	The Chief Secretary

Sir,

Submitted

to the Dewan of Mysore
Bangalore

Subd. On the last occasion
Mr. A. Ramakrishna Adv., was
recommended to act as
Pub. Pros. of Shimoga but the
app't was not made as
Mr. Sundaram Iyer returned
soon after to Shimoga.

The same acting app't
& may perhaps be sanctioned
now.

17/11

The District Mester will
be requested to arrange
for witness Mr.
Acty as P.P. as before.
If he declines, the Dist.
Mester may make
another nomination
in accordance of Govt.
sanction & report
for confirm.

22/11 23/11

Dated 15th

Despatched

November

Received

Enclosures No.

General No.
No.

Sir,

I have the honor to
state that the hearing
of the appeal in the
Nemmar-Murder Case
has been adjourned
to 4th December/93 in
the Chief Court. The
Chitaldroog Sessions
also commence on
the same date. If I
am to go to Bangalore
as per previous orders
to

to appear with the Assistant Government
Advocate in the appeal, arrangements
will have to be made to conduct the
Chitaldroog sessions.

Early orders are solicited.

I have the honor to be
Sir

Your most obedient servant
S. Sundaram
Public Prosecutor
Nagar Division

23

Ch. R. Rad. J.

Section	
File No	24
Serial No	18

Letter from the Public
Prosecutor, Nagpur Division
of the 15th November 1933,
stating that the hearing
of the appeal in the
Nannai murder case
has been adjourned to
4 December 1933 in the
Chief Court, that the
Chitaldroog Sessions
also commence on the
same date and that if
he is to go to Bangalore
as per previous orders
to appear in the appeal
other arrangements will
have to be made for
conducting the Chitaldroog
Sessions.

Camp No 230 of ²³24/11/93 Order no: 8.
The

The District Magistrate
 will be requested to
 arrange for Mr. S. R. S. R.
 Ram Acting as Public
 Prosecutor of Nagar
 Division as before. If
 he declines, the District
 Magistrate may make
 another suitable nomi-
 -nation in anticipation
 of Govt. sanction and
 report for confirmation

draft. *[Signature]* 23/11/93
 23/11/93 *[Signature]*
 Vnd.

To
 The District Magistrate of
 Camp No. 23/8/23/11/93
 Copy to the Public Prose-
 -cutor Shri *[Signature]*
 with reference to his letter
 bearing reference of the 15th inst.

draft. *[Signature]* 23/11/93
[Signature]

No. 189
 Copy of the ch to
 Mr. J. H. ...
 ...
 Review of the case
 showing the conduct
 of the local police
 & the men who
 first dealt with the
 case - (the latter done
 early before the facts
 are not known)
 J. H. ...

(General Serial No. 31)
 Section 189
 File No. From 197
 Serial No. 19
 12762
 16 FEB 94
 The ... arrived
 in Mysore

To The Chief Secretary to the
 Government of Mysore

Dated 16th February 1894
 Despatched

Received

Enclosures No. 7 in separate
 General No. 197
 No.

Reporting the result
 in Mysore Criminal
 Appeal & returning the
 records concerned thereto

J. H.
 17.2.94

Subd. of ...
 The ...
 20/2/94

The file containing the
 pro. quoted within is with
 the Chief Secretary.

The records may
 be sent to the ...
 Concerned. Submitted
 7/2
 9/2
 870

Assistant Genl Advocate
16th Feb 1894

No 197
Ex: No 7 in separate
packets

From

The Assistant Genl Advocate
in Mysore

To

The Chief Secretary to the
Deewan of Mysore

Sir,

*. *
Records case

In returning the Records
received with Govt Proceedings Order
No 3678-80, dated 23rd August. last.
of 7.105-92

I have the honor to report that the
Appeal preferred by Government
against the order of acquittal has
been dismissed by the Chief Court.

I have the honor to be
Your most obedient servant.
S. K. S. S.

Asst Genl Advocate

J. 1106

(25)

No 14748 of 3/3/94.
J. 7.105.92

Section	Ch. 20
File No	24
Serial No	20

J. 1106

The Registrar of
the Chief Court of
Mysore.

Sir,

I am directed to
request that you
will be so good as to
forward ^{to the Registrar} a copy of
the judgment delivered
by the Chief Court
^{the Registrar in the case in which an}
~~has~~ ^{been} ~~presented~~ appeal
has been recently preferred to ~~the~~ the
~~former~~ ^{present} Chief Court.

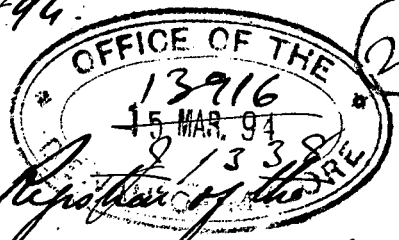
I have &c

11/3/3

Sir, Chief Secretary

2-33

1894.



Am.

*The Registrar of the
Chief Court of Oregon.*

Section	<i>018</i>
File No	<i>24</i>
Serial No	<i>21</i>

*The Chaplain to the
Barons of Oregon*

*104316 17 10. 3. 94.
150*

*States that the judgment
of the Chief Court in the Pen-
man Murder Case is being
printed & that a copy thereof
will be forwarded as soon as
it is received from the Rep.*

15/3/94

*File with it in
17/3*

*Recd.
16/3*

No 4316
150

26

Bangalore 10th March 1894.

From

The Registrar of the
Chief Court of Mysore

To,

The Chief Secretary to the
Dewan of Mysore.

Sir,

In reply to your letter No. 14748
J.F. 105-92
of the 3rd Instant, requesting to be furnished with a copy of judgment of this Court in the Nemmar murder Case, I am directed to state that the judgment is being printed, and that a copy thereof will be forwarded as soon as it is received from the Press.

I have the honor to be,

Sir,

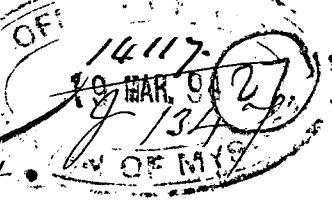
your most obedient servant,

W. S. S. S.

Registrar.

288

Section _____
 File No. 24-92
 Serial No. 29 From the District Judge



Recd 20/3. J. 19. 3. 11
 For the records of the ^{the Kemmuru murder case} J. Branch
 The reference quoted herein is no J. 7. 105. 92
 which is with the Under Secretary.
 Subd
 20/3/94.

Return the Books asked for
 22/3.

To The Chief Secretary to the
 Dewan of Mysore

Dated 15th to
 Despatched 16th March

Received

Enclosures No. none

General No. 178
 No.

Government Advocate's
 letter no. 215 dated 3.12.93
 instant stating that
 the records in the Kemmuru
 murder case have been
 forwarded to the office
 of the Chief Secretary
 to the Dewan immediately
 after the disposal of
 the case by the Chief
 Court in Appeal.

+ Radin Lass: Case no. 1 of 1893

With reference to 11

above, has the honor to request that the "Ro³
Book marked as Exhibit D. in P. S. No. 72
of 1892 on the file of the Bidihalli Munsif's Court
& forwarded to the Chief Secretary with this Office
docket No. 200 dated 19th June 1893 for refer-
ence in connection with the hemmar murder
case, may be kindly returned, as early as practic-
able, as the same is required for reference in Appeal
No. 130 of 1892 on the file of this Court.

S
Shri Mataji
District Judge
Kapur Division

Sind

No 16221 Sm. 1600

J. 1173

2/24.3-94.

Section	24
File No	91
Serial No	23

District Judge

Nagar Division

✓ His Docket No 198 dated
15th March 1894 requesting
the return of the 'Roz' Book
marked as Exhibit D in O.S.
No 72 of 1892 on the file
of the Zedakalli Manseffo
Court, forwarded to this
office with his Docket No
200 of 19th June last.

Has the honor to return
the book asked for in
the above.

By
3
off.

"By order"

24/3/94

Under Secretary